

MEETING
STATE OF CALIFORNIA
SECRETARY OF STATE
VOTING SYSTEMS AND PROCEDURES PANEL

SECRETARY OF STATE
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AUDITORIUM
SACRAMENTO, CALIFORNIA

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JAMES F. PETERS, CSR, RPR
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PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

PANEL MEMBERS

Mr. Marc Carrel, Acting Chairperson

Ms. Terri Carbaugh

Ms. Deborah Davis

Mr. Chon Gutierrez

Ms. Laurie McBride

Mr. Tony Miller

Mr. John Mott-Smith

STAFF

Ms. Dawn M. Mehlhaff

Mr. Steve Trout, Staff Counsel

Mr. William P. Wood, Elections Counsel

ALSO PRESENT

Ms. Vivian De Leon Bias

Mr. Christopher Bowman, Citizen Advisory Committee of
Elections

Mr. Tony Brasunas

Ms. Helynna Brooke, National Women's Political Caucus

Ms. Sally Buchmann, Pride at Work, AFL-CIO

Mr. Arthur Chang, District 2 Democratic Club

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APPEARANCES CONTINUED

ALSO PRESENT

Ms. Lucy Colvin

Mr. Derek Cressman, CALPIRG

Ms. Nia Crowder, African American Democratic Club

Mr. Rob Dickinson

Mr. Don Eichelberger, SF Green Party

Mr. Steven Freeman, Freeman Consulting

Ms. Susan Hall, Richmond District Democratic Club

Mr. Richard Hansen, Richmond District Democratic Club

Ms. Shirley Hansen

Mr. Michael Harris, Lawyers' Committee for Civic Rights

Mr. David Heller

Mr. Steven Hill, Center for Voting and Democracy

Ms. Mary Jung, Sunset County Democratic Club

Mr. Charles Kalish

Mr. David Lee, Chinese American Voters Education Committee

Ms. Paula Lee, League of Women Voters

Ms. Jonee Levy, SF District Democratic Club

Ms. Myrna Lim, Filipino American Voters Education Council

Mr. August Longo, FDR Democracti Club

Mr. Pete Martineau, Californians for Electoral Reform

Mr. Mark Mosher, California Voting Rights Foundation

Mr. Bill Powers, Congress of CA Seniors

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APPEARANCES CONTINUED

ALSO PRESENT

Mr. Jim Salinas

Ms. Sabrina Saunders, CA Voting Rights Foundation

Mr. Tom Schulz, SF Elections Commission

Mr. Richard Shadoian, SF Elections Commission

Ms. Ann Short

Mr. Matt Spencer, SF Green Party

Rev. Arnold Townsend, SF Elections Commission

Mr. Corey Valdez

Ms. Sue Vaughan

Mr. Howard Wallace, SF Labor Council

Mr. Thomas Willis, Remcho, Johansen & Purcell

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ACTING CHAIRPERSON CARREL: Good afternoon. The meeting for the Voting Systems and Procedures Panel is now called to order.

My name is Marc Carrel. I'm serving as an acting Chair today in place of Mark Kyle, who is out of the state.

We have a large crowd today, so I would ask for your cooperation as we run through this hearing.

Can everyone hear me?

Let me give you a little background on what this panel does and what we intend to do today.

The Voting Systems and Procedures Panel is the State body that oversees the certification of voting systems in California. We determine if a system is in compliance with both the requirements of the Election Code and with State regulations.

Today we are here to review two items for certification. Each of these is reviewed in a context of the voting system's conformity with State regulations and State law.

First we're going to hear from our staff, who have evaluated and tested the systems. Then the applicant or vendor will be given a chance to comment. Then I will open it up for public comment to allow the public to

1 participate and to provide testimony.

2 Testimony from the public is limited to two
3 minutes per person. Out of respect for those who came
4 before you and stayed within those limits and out of
5 courtesy to those waiting their turn behind you, I would
6 ask all that -- when you do request to comment, that you
7 stay within the two-minute timeframe.

8 No one will be allowed to speak unless they fill
9 out a comment card. There will be individuals walking
10 throughout prior to -- you can fill them out at the tables
11 outside or fill them out from people who will walk through
12 the isles handing them out. Please return them to the
13 staff. And I will then call people in groups of three so
14 you know that your turn is coming up soon. And that way
15 we don't need a long line, but you can just fill out when
16 your turn comes.

17 I would ask that if an organization is
18 represented, that only one individual speak on behalf of
19 an organization.

20 Also for public comment, all comments should be
21 addressed to the panel, not to staff, not to the vendors,
22 and not to the audience.

23 When you do approach the microphone, also I'd ask
24 that you state your name for the record.

25 Thank you for your cooperation on this.

1 Now that we have covered the basics, let's begin
2 with Item 1, the Mark-A-Vote system.

3 Ms. Mehlhaff, would you present the staff report.

4 VOTER OUTREACH PROGRAMS DIRECTOR MEHLHAFF:

5 Absolutely.

6 This is a minor modification to a currently
7 certified system. This is a read head change basically to
8 the Mark-A-Vote system. This modification consists of
9 insert an infrared filter between the light source and the
10 filter optics to filter out the infrared light.
11 Essentially, the way the system currently works, the read
12 heads can only read ballots that are marked with a
13 specific pen.

14 ACTING CHAIRPERSON CARREL: Can you move closer
15 to the mic.

16 VOTER OUTREACH PROGRAMS DIRECTOR MEHLHAFF: Is
17 that better?

18 ACTING CHAIRPERSON CARREL: That's better.

19 VOTER OUTREACH PROGRAMS DIRECTOR MEHLHAFF: The
20 current system can only read ballots that are marked with
21 a Mark-A-Vote pen, which has a certain type of ink in it,
22 or a No. 2 pencil. And so this modification will assist
23 counties tremendously with being able to read ballots that
24 are marked basically as absentee ballots at home. It will
25 be able to read ball-point pens, felt-tip pens, pretty

1 much any color except a pen that has a red hue.

2 So it's just a modification. It's a switching of
3 the read heads. No software changes are made. Then all
4 other modifications or all other components stay the same.
5 We did run various test packs of ballots to do this. They
6 all ran perfectly fine. You know, a hundred percent
7 accuracy on these. So staff is recommending that this
8 modification be approved by the VSP.

9 ACTING CHAIRPERSON CARREL: Does the vendor wish
10 to make any comments?

11 Okay. Is there any questions from the panel?

12 Seeing none, is there any public comment? Are
13 there any cards submitted for Item No. 1?

14 Okay. I would entertain a motion.

15 PANEL MEMBER GUTIERREZ: Move the staff
16 recommendation.

17 ACTING CHAIRPERSON CARREL: We have a motion from
18 Member Gutierrez.

19 Do I have a second?

20 PANEL MEMBER GUTIERREZ: Second.

21 ACTING CHAIRPERSON CARREL: Second from member
22 Davis.

23 Any discussion?

24 PANEL MEMBER MOTT-SMITH: Just to be clear, that
25 includes the finding in Section 6 -- the necessary

1 findings in Section 601 of the procedures?

2 VOTER OUTREACH PROGRAMS DIRECTOR MEHLHAFF: Yes.

3 PANEL MEMBER MOTT-SMITH: So that the
4 recommendation will include that finding.

5 ACTING CHAIRPERSON CARREL: So the recommendation
6 includes the findings.

7 Seeing no questions or discussion from the
8 members, all in favor of approving staff recommendation on
9 Item No. 1 say aye.

10 (Ayes.)

11 ACTING CHAIRPERSON CARREL: All opposed?

12 Okay. The ayes have it.

13 Item 1's complete.

14 Now we are up to Item 2. And what could that be?

15 Oh, my goodness, the ranked choice voting system.

16 Thank you very much.

17 Let me preface this item with a few words, and to
18 reiterate something that I alluded to earlier.

19 The voters of San Francisco approved the charter
20 amendment last year for ranked choice voting or instant
21 runoff voting. And we are not here today to evaluate the
22 merits of that decision. That is the law of San
23 Francisco. We're not here to debate and we're not here to
24 take comments on the value or the lack of value of instant
25 runoff voting as a concept or as a proposal.

1 What we're here to do today is evaluate the
2 application that's in front of us from the City and County
3 of San Francisco for the manual data capture ranked choice
4 voting system to implement the instant runoff voting that
5 the city -- that the people of San Francisco have chosen
6 to adopt.

7 So this is a form to review an application for
8 one voting system that has been offered to implement that
9 and to make a determination whether it conforms to the
10 requirements and standards that the State has under the
11 Election Code and under State regulations for voting
12 systems. So I have to ask that any discussion either from
13 the panel members or from the public, in addition to staff
14 and counsel, that we keep on task, which is to this
15 application in itself.

16 So with that said, if staff can present the
17 report.

18 Ms. Mehlhaff.

19 VOTER OUTREACH PROGRAMS DIRECTOR MEHLHAFF: Thank
20 you.

21 As you know, the City and County of San Francisco
22 has submitted an application for manual data capture and
23 tabulation process. Throughout this I'll just refer to it
24 as the Department when I'm referring to San Francisco.

25 The proposed system would work together with the

1 Department's currently certified voting system, which is
2 the Optech III-P Eagle voting system, which is an ES&S
3 product. The Department will continue to use the basic
4 format of the Optech III-P Eagle ballot, but propose to
5 modify it to allow three choices for each ranked choice
6 voting contest. And I'll refer to ranked choice voting as
7 RCV throughout.

8 The ballot for RCV as designed at the direction
9 of the Department's current voting system vendor will
10 allow three choices -- and you do have a copy in your
11 binders when it talks about the ballot, but it will list
12 the ballot -- each candidate separate times and ask the
13 voter to vote three separate times.

14 At the polling place the voter will vote and the
15 voter will feed that ballot through to the Optech Eagle,
16 which they currently do now. The Optech Eagle will be
17 able to see the first choice candidates. And at the end
18 of the close of polls they'll produce results for the
19 first choice.

20 The Eagle will be blind basically to the second
21 and third choice. It currently can't -- the Eagle can't
22 provide the second and third choice options like it can
23 the first because of current memory and software
24 limitations with the Eagle. And that's where the San
25 Francisco's procedures come into play.

1 So at the close of polls each precinct will have
2 a printout total for the first choice candidates, but will
3 not have any of the subsequent races of the second and
4 third choices of each race.

5 So the county has provided, as with these
6 procedures, their process would start immediately after
7 the close of the polls and with the accumulation of all
8 precinct ballots at a collection area, in which they -- to
9 my knowledge they have not yet determined where that will
10 be.

11 So once all the cards are transported from each
12 precinct to this collection area, they will go to our
13 processing area. At the processing area there will be
14 recording teams who will log the votes for each RCV
15 contest on the data sheets. This will be done by having
16 teams consisting of four people to process each precinct.

17 The way that that will work: On each team, one
18 person will be responsible for calling the votes
19 represented on each ballot. The second team member would
20 be responsible for ensuring that that caller does in fact
21 call the correct information as represented on that
22 voter's ballot. So it's a cross-check mechanism.

23 The third or fourth team members would both be
24 simultaneously recording the information that is called
25 out to them on separate independent data sheets. Each

1 data sheet is identical and contains all candidates with
2 bar codes associated with each candidate. Using a
3 highlighter pen the callers -- or the individuals
4 recording the votes would highlight the appropriate
5 candidate's name from the voter's ballot onto the data
6 sheet.

7 So essentially you'll have four people at a
8 table, one person calling the results, one person ensuring
9 that that's the information that's correctly being called,
10 two separate people marking in essentially a binder.
11 They'll have one sheet per ballot and they will highlight
12 the voter's first choice, second choice, and third choice
13 candidates. And each of those candidates will have a bar
14 code associated with them.

15 Once a precinct is completed, both data sets
16 would be provided to data entry teams at a separate
17 location. The data entry teams would enter the
18 information --

19 ACTING CHAIRPERSON CARREL: Excuse me. I have a
20 question regarding what you said earlier with small teams
21 calling out. And I don't know if Mr. Freeman can expand
22 upon it as well. I wasn't at the test, so I'm unclear how
23 far apart these groups are. And will -- three people
24 reading ballots in one area and three people reading
25 ballots in another area, will that be confusing in terms

1 of calling out names so that there's no miscommunication
2 about who's called out what?

3 VOTER OUTREACH PROGRAMS DIRECTOR MEHLHAFF: The
4 test environment that we did, we only simulated two
5 separate precincts, so we only had two teams visible. And
6 there was proximately six feet between the two tables, and
7 that seemed to work okay. But we were in a warehouse
8 setting. There was no other noise or distraction for all
9 practical purposes. There were members of the public
10 observing. But the noise level was very low.

11 So the test environment, it did not appear that
12 hearing was an issue. But, you know, the county has
13 proposed a diagram with some parameters in terms of how
14 many data teams -- and they may want to address that in
15 terms of --

16 ACTING CHAIRPERSON CARREL: I'll hold the
17 question then to after your report.

18 VOTER OUTREACH PROGRAMS DIRECTOR MEHLHAFF: Okay.
19 So once a precinct's completed, it will go to the data
20 entry teams. The data entry teams -- so you have two
21 separate binders for each precinct. The data entry teams
22 will receive both of those binders, and you will have two
23 separate people basically scanning those bar codes for --
24 they'll scan the precinct number, the ballot number, the
25 first choice candidate, second choice, and third choice

1 candidate for all RCV ballots. So you'll have two
2 separate binders, two individual separate people actually
3 bar coding those in. So you have two sets of data from
4 one precinct.

5 So once all the bar codes have been scanned by a
6 hand wand scanner, a data verification team will review
7 the sets of data that are entered for any discrepancies.
8 If any discrepancies are found, the data verification team
9 will file a discrepancy report, which is basically just a
10 piece of paper that they note where the discrepancy was
11 found. And they'll forward that to another team, the
12 reconciliation team. And that team will investigate and
13 reconcile the discrepancy.

14 So how this process occurs is you have the two
15 teams wanding the information in with a hand wander, and
16 that goes into the database. And then they have a program
17 set up that it will compare those two sets of data. And
18 if anything is entered different -- so you should have the
19 same results from both individuals since the same set of
20 binders or basically the same data -- they'll go and
21 they'll say -- they'll pull those, they'll pull either the
22 binders or the ballot cards depending on where the
23 discrepancy occurs.

24 If you have one set where it shows
25 Candidate Number 1, you know, is the first choice in

1 candidate, 2 is the first choice, or Candidate A and
2 Candidate B, there's a discrepancy obviously. And so they
3 will go back to the original data binders and look. And
4 if Candidate A is left in them both, they know it was just
5 a wandering error by that one individual and they'll correct
6 it.

7 If the binders do in fact show Candidate A as the
8 first choice and the second binder shows Candidate B as
9 the first choice, then they will go back to those ballots
10 and they pull the ballots and find out, you know, what the
11 correct answer should be.

12 So they do have a mechanism in place for
13 identifying those discrepancies for the data collection
14 card.

15 So once all of that is done, once all of the
16 discrepancies have been identified and resolved, the
17 tabulation team will then accumulate the data tables into
18 an access database. And, at that point, where there is no
19 majority winner, 50 percent plus 1, the RCV tabulation,
20 algorithm, will be run.

21 So although the Department will perform the data
22 capture for all RCV contests, the RCV tabulation process
23 will only be implemented in those contests in which there
24 is no majority winner.

25 And this equipment they propose to use consists

1 of a networked Microsoft Sequel Server system, using
2 Microsoft Access as a front end for data entry and control
3 of work stations. Off-the-shelf bar coding and scanning
4 devices are also utilized.

5 Federal testing was not conducted on this system.

6 In terms of State testing, we did conduct the
7 testing on June 10th. It was conducted by myself, Mr.
8 Robert Nageley, who's been our testing consultant for
9 nearly four decades, and Mr. Steve Freeman, who's sitting
10 to my right.

11 The conclusion of the examiners is that the
12 procedures have significant defects and problems under the
13 California State Elections Code and require further work.
14 The defects, the procedures are all fixable. We believe,
15 however, that compliance with State law is more of a
16 significant problem.

17 Some of the problems that we feel need correction
18 and resolution are the pre-election generation of system
19 proofing for the RCV ballots, data sheets, and database
20 set up; logic and accuracy test procedures for the RCV
21 accounting system; canvassing procedures for certified RCV
22 election results as either including or specifically
23 excluding the write-in votes; an automatic manual recount
24 procedure to replace or satisfy the one percent automatic
25 recount requirement; specific guidelines to resolve the

1 tie problem identified in a test election that we
2 conducted; the administrative issue of whether the
3 full-scale election can be completed with available
4 resources and funding in a reliable and timely fashion to
5 meet the 28-day reporting deadline.

6 The procedures were also reviewed by the advisory
7 committee to this panel, which is comprised of election
8 officials. And most of their concerns were procedural
9 concerns and some of the need -- that there would need to
10 be changes to the Elections Code in order to resolve some
11 of these issues.

12 So the key legal issues, if you'd like me to go
13 through those, Mr. Chair.

14 ACTING CHAIRPERSON CARREL: Yes, please.

15 VOTER OUTREACH PROGRAMS DIRECTOR MEHLHAFF: Okay.
16 The system does not provide for definition of how recounts
17 will be performed on the RCV ballots to meet the
18 requirement of the 1 percent manual recount. The way that
19 the system works is, as I mentioned, the ballots will be
20 fed into the Eagle scanner at the precinct. That will
21 provide results for the first-choice candidates at the
22 close of polls. A one-percent manual recount can be
23 conducted for that part of the process. You can go back,
24 pull one percent of the precincts, tabulate those, and you
25 can compare those to the results of the Eagle produced on

1 election night.

2 In terms of the algorithm, the way that this
3 process works is once all of that data is put into those
4 access database, it's pretty much lifted off away from the
5 ballots which ties it to the precinct. So you have a
6 countywide database that is not -- those votes can't be
7 tied back to the precinct once it's in the database. So
8 you apply the algorithm to that part of it.

9 And the point of the one-percent manual recount
10 is to ensure the tabulation process does what it's
11 supposed to do. And so there is no way to go back and
12 pull out one percent of the precincts and run the
13 algorithm on that, because if you pull out one percent of
14 the precincts and run the algorithm, you have nothing to
15 match it to.

16 I know individuals have claimed that you can go
17 back and you can look at the ballots, you can pull one
18 percent of the precinct ballots and compare the hard copy
19 ballots to the binders that the individuals have created
20 with the data -- and, yes, you can do that -- but you
21 cannot do a one percent once the algorithm has been
22 applied. And so you can't verify the tabulation process
23 from that point. And so that's one of the main legal
24 issues that we have.

25 One of the other issues is in the case of a

1 candidate and voter-requested recount, as I mentioned,
2 once all the data is put in there, it's a countywide
3 total, it is not tied to the precincts. So if a candidate
4 does choose to ask for a recount, they would have to ask
5 for a countywide recount, in essence. They could go back
6 and ask, you know, "Let's look at this precinct," and then
7 could look at the ballots and the data sets for those
8 precincts, but you're not going to be able to look --
9 you're not going to be able to back out of the algorithm
10 and just apply the algorithm to one precinct.

11 So it recounts the issue in the sense that a
12 candidate or a voter would need to request a countywide
13 recount if they so chose to do so.

14 And State law allows for voters or candidates to
15 indicate the order of precincts in which they would like
16 to be recounted, and so that would not apply in this case
17 because that would not be a viable option.

18 In terms of resolving ties. This was an issue,
19 in fact, that we encountered post-testing. Mr. Freeman
20 ran some other scenarios. And the charter refers to State
21 law. And the charter does indicate that you can resolve a
22 tie if the tied candidates -- if their total is less than
23 the total votes for the next highest candidate, you can
24 automatically distribute their votes to the next person
25 that those individuals voted for.

1 And that works, except it doesn't work in the
2 case if you have a first choice candidate and you have the
3 second and third choices tied. For example, if the first
4 choice candidate has 50 votes and the second and third
5 choice candidates each have 40 votes and they've tied, 40
6 plus 40, 80, that's more than 50. You can't automatically
7 eliminate theirs, because the charter just says when those
8 votes don't equal -- when those equal less than the
9 highest rank. And State law indicates that you can
10 resolve it by runoff election or by lot. But it also
11 indicates that, you know, one of those occurs for primary,
12 one occurs for a general. And so this would need to be
13 determined whether or not an RCV race is a primary
14 election or a general election, and that has not been
15 resolved as of yet.

16 ACTING CHAIRPERSON CARREL: Has the City and
17 County of San Francisco in their application attempted to
18 address this issue?

19 VOTER OUTREACH PROGRAMS DIRECTOR MEHLHAFF: When
20 they -- they have addressed it by indicating -- by signing
21 the charter in that it references State law, and also the
22 charter indicates that, you know, the two votes as long as
23 they don't equal the next one, that those can just be
24 automatically eliminated. So in that case that works.
25 But in the case where the two votes equal more than the

1 first choice candidate, you know, we --

2 ACTING CHAIRPERSON CARREL: So there's ambiguity
3 in the application?

4 VOTER OUTREACH PROGRAMS DIRECTOR MEHLHAFF:

5 Correct.

6 And then there's the tally provision. The
7 Election Code requires that a separate tally be performed
8 for that. And the RCV procedures do not provide for a
9 separate tally for the right end. And the other legal
10 issue is whether or not this can be completed within the
11 28 days as specified in the elections code.

12 You know, if the county -- if the Department
13 cannot, then they would need to seek a court order to
14 allow them to continue canvassing past the 28 days.

15 ACTING CHAIRPERSON CARREL: Thank you.

16 I don't know if the members have questions now to
17 ask or if you'd like to have comments from the applicant
18 first, and then we can ask both staff and the applicant.
19 Whichever you prefer. I have some questions, but I think
20 most of them will need some clarity from the applicant.

21 So why don't we hear from Mr. Arntz and give him
22 some time to make some comments in response to the staff
23 report.

24 MR. ARNTZ: I'm John Arntz. I'm the Director of
25 Elections in San Francisco. And we're the applicant. You

1 know, we're a Department of Elections, we found ourselves
2 in a situation where we were a vendor. We had created a
3 voting system to implement ranked choice voting in San
4 Francisco because first we thought if there was a problem
5 with the mechanical based system, the ranked choice
6 voting, we had to have something to use as a backup plan.

7 As we went forward in time it became apparent
8 that there was going to be no -- potentially no mechanical
9 system in place for this election. And our manually based
10 system as we put forward would be the only way to do
11 ranked choice voting for this fall in San Francisco.

12 It's been a lot of work for the Department of
13 Elections to find itself as a vendor and to put this
14 proposal to the Secretary of State's Office. It's been a
15 lot of work for the Secretary of State's Office as well to
16 receive this information, to process it, and to understand
17 it and to make a decision.

18 I think hearing Ms. Mehlhaff's report, the
19 foundation that -- what she puts forward I agree with. I
20 think what the differences are for the Department and for
21 myself is when we put together our plan, we didn't view --
22 we viewed our system and the algorithm as separate
23 entities. We didn't see the algorithm being tied to these
24 precincts. So since we could verify what happened in each
25 precinct as far as the vote tally was concerned, we felt

1 that was sufficient to explain how a recount would be done
2 under ranked choice voting. A one percent manual tally
3 could be done under ranked choice voting.

4 And really that philosophy that we have where the
5 algorithm is not tied specifically to our tallying system
6 is fundamental throughout our application. So if the
7 Secretary of State or this panel has the thinking that the
8 algorithm is tied specifically to each precinct, then I
9 think there's going to be a fundamental difference the
10 Department has with these bodies.

11 As far as some of the other issues that came
12 forward in the report, there were six legal issues.

13 On the instance of resolving ties, the way we
14 solved that was essentially another reallocation process.
15 If there were ties, we didn't worry so much about a
16 general election or a primary election. What we thought
17 was how do we allocate under the ranked choice voting
18 charter that we have in San Francisco.

19 And normally when you reallocate votes, you have
20 to run the algorithm to see if that reallocation changed
21 the results though. What we decided to do with ties was
22 we would reallocate the tied votes, then run the
23 algorithm. So there wouldn't be a chance for candidates
24 to get an advantage, because we moved one tie -- votes for
25 one tied candidate into the algorithm before another. So

1 we resolved it that way. We thought that was a
2 straightforward and also a legally founded way to resolve
3 the tie issue.

4 ACTING CHAIRPERSON CARREL: I'm confused. If you
5 have the top candidate with -- as the example was 50 votes
6 and the next two with 40, how would your proposal work?

7 MR. ARNTZ: We wouldn't tabulate -- we wouldn't
8 use the algorithm until we had reallocated the votes for
9 both tied candidates. That way there was no advantage
10 because one candidate -- one tied candidate's votes were
11 put forward before the other. Because there could be --
12 depending on which candidates --

13 ACTING CHAIRPERSON CARREL: But you're saying if
14 A gets 50, B and C get 40, you're going to take the second
15 choice of B and C together and reallocate them to whom?

16 MR. ARNTZ: Well it depends on the situation.
17 The way we would reallocate them to the next rounds of
18 votes that were on the card is how we would do it, how
19 we'd resolve the tie issue.

20 But the way we solved the tie issue wasn't so
21 much on the first, second, and third. We expected more in
22 the first round where we had less votes to allocate
23 forward. That's why we have our system -- that's the way
24 it is.

25 ACTING CHAIRPERSON CARREL: Okay. I'm still

1 confused. I mean I understand that working with
2 algorithms and working with reallocation. And the example
3 only includes three candidates existing, when in fact
4 there may be many more than three candidates. So I
5 recognize that.

6 MR. ARNTZ: Yeah, I mean one thing with ranked
7 choice voting, there's a lot of variable that you put into
8 play. And I mean this is just one example that you're
9 putting forward here. There's a thousand others we could
10 put forward as well as a variation of ties. So I don't
11 think even the first, second, and third is illustrative of
12 all that could happen on a ranked choice voting.

13 ACTING CHAIRPERSON CARREL: Okay. I'll give you
14 that.

15 MR. ARNTZ: Then with the write-in candidates, I
16 think the ranked choice voting that we have does actually
17 tally the write-in candidates because there's a markup.
18 The write-in candidates will be only the qualified
19 candidates, the ones that come for any election that's
20 held in San Francisco and throughout the state.

21 So we would actually have a space on the tally
22 card for the qualified write-in candidates. They have a
23 bar code that would get scanned and then it would be
24 tallied and tabulated.

25 Now, I think the sheets that were forwarded in

1 their application don't show any slot for a write-in
2 candidate that is not qualified. But that's easily
3 remedied. We could easily put a spot on the tally sheet
4 saying, "unqualified write-in candidate." We could tally
5 that, we could scan that, and it could be part of any
6 report for the election. So I don't think -- in my mind,
7 I don't think the write-in candidates are something to
8 disqualify their application for certification.

9 ACTING CHAIRPERSON CARREL: But having -- Ms.
10 Carbaugh, did you have a question?

11 PANEL MEMBER CARBAUGH: No, I was just echoing
12 your confusion relating to how to break a tie and
13 specifically what your proposal is to resolve that.

14 ACTING CHAIRPERSON CARREL: On the write-in
15 issue -- and I don't know how that will work because I
16 know in the last mayoral election there were a lot of
17 write-ins. And so your office has experienced counting
18 write-ins. But does that preclude using the Eagle to
19 count them if the write-ins are all handwritten for the
20 first choice? So you have to hand count them and you
21 can't run them through the scanner and correct them.

22 MR. ARNTZ: I don't understand your point
23 actually, Mr. Carrel.

24 ACTING CHAIRPERSON CARREL: I'm just asking --

25 MR. ARNTZ: I don't understand the example that

1 you're giving on the write-ins. Because Eagle could never
2 capture a write-in candidate. It can -- the Eagle machine
3 can say this is a write-in ballot and it's going through
4 my read heads. But it wouldn't know who that candidate
5 is, never could. So those would always have to go back
6 and be tallied by hand anyway.

7 ACTING CHAIRPERSON CARREL: Okay. I'm just --
8 that's why I'm asking.

9 MR. ARNTZ: All right. Okay.

10 And then on the last issue about the 28 days.
11 Actually the staff report answered that question. I mean
12 if we were to find ourselves in a situation where our work
13 could not be done within the 28 days under the statutes,
14 then we could always ask for some relief in the courts.
15 So I don't see that as a reason to preclude acceptance of
16 the application.

17 ACTING CHAIRPERSON CARREL: Okay. Any further
18 comments?

19 MR. ARNTZ: No, right now I don't.

20 ACTING CHAIRPERSON CARREL: Okay. I'd ask that
21 you stand up there in case there's questions from the
22 members of the panel -- or sit right there.

23 Okay. I'll open it up to questions from the
24 panel. Before we do that I neglected to introduce the
25 members of the panel. So I will do that.

1 Laurie McBride, Terri Carbaugh, John Mott-Smith,
2 Chon Gutierrez, Bernard Soriano, the esteemed Tony Miller,
3 and Deborah Davis.

4 Do any of you have questions for either staff or
5 for the applicant?

6 PANEL MEMBER MOTT-SMITH: I do.

7 ACTING CHAIRPERSON CARREL: Mr. Mott-Smith.

8 PANEL MEMBER MOTT-SMITH: I'm interested in --
9 Mr. Freeman, who is the technical consultant, Mr. Nageley
10 could not be here today; is that correct?

11 So we do have a letter from Mr. Nageley and we
12 have a report from Mr. Freeman. I'm interested in some of
13 the specifics of your report, if we could sort of walk
14 through those.

15 In your -- I'm not sure whether it would be best
16 to use the summary sheet or to use the detail that you
17 provided. Why don't we start with the detail while you go
18 through the inspection of the modified procedures. And
19 you identified either as an error, a concern, or something
20 that's missing, something that is an error or something
21 that is a major item for a topic that needs serious
22 development.

23 I'd like to talk about each one of these a little
24 bit. But maybe for purposes of organization and time, we
25 could start just with the major items, the first one of

1 which would be Item 5 on your list, which basically says
2 logic and accuracy tests for the ranked choice voting
3 ballots should exercise the data entry verification,
4 tabulation, tracking, point retention, and reporting, and
5 that these are not currently provided.

6 Can you expand on that at all?

7 MR. FREEMAN: I wrote that on the basis of the
8 procedures as submitted by the applicant. In that
9 particular document the procedures that they listed for
10 any type of process like that applied to the Optech Eagle.
11 There was not even a real specification as far as the
12 manual procedure goes on trying to perform any type of
13 validation and logic test prior to the election.

14 I understand in conversation with him that they
15 did some checks on their own in private. But the point of
16 the logic and accuracy is something that would provide
17 confidence to the public. And those procedures did not
18 list anything specifically for this procedure.

19 There's some concerns on that because of a couple
20 of the issues that could come up. One of those has to do
21 with verifying that the codes that are used in the data
22 sheets are correct and actually match with the nominal
23 title used on the code is going to be used by those
24 readers and recorders.

25 I didn't see any -- didn't find anything in the

1 procedures that listed specifically the test to verify
2 those as part of a public test for -- before or after the
3 election. Along with that is the idea that the -- I lost
4 my train of thought on that.

5 PANEL MEMBER MOTT-SMITH: Well, while you're
6 looking for the engine to your train of thought, what
7 would be the -- in plain language, what would be the
8 potential downside of not having the ability to verify
9 codes in the data sheets and so forth? What would the
10 consequence potentially be?

11 MR. FREEMAN: Well, if for some reason one of the
12 codes got recorded wrong, printed out wrong on the data
13 sheets, that code would result in possibly those --
14 counter for that particular candidate or position being
15 recorded against the wrong ranked choice vote level or
16 against the wrong candidate, depending on what the error
17 was in that particular code.

18 Essentially that code's a blind code. It's not
19 easily read by humans interpreting to check to make sure
20 it's correct. The only thing you can do is with a machine
21 check against it and then try to check to see what was
22 being reported out as the counts are being record.

23 PANEL MEMBER MOTT-SMITH: I guess without jumping
24 ahead though, typically that kind of a thing is found in a
25 one-percent manual recount. Would that be the case that

1 you could discover something like that in a one-percent
2 manual recount process? Or is that completely invisible
3 to any audit procedure at that point?

4 MR. FREEMAN: If you had a one-percent recount
5 procedure, you would probably catch that type of problem.
6 But the -- you'd have a problem in the sense that I'm not
7 sure that you've got adequate records recording the
8 information to do that comparison with. I'd have to go
9 back over the data tables that they've corrected to make
10 sure that that information was available at that level.

11 PANEL MEMBER MOTT-SMITH: Okay. Unless anyone
12 else has any questions on that item, I want -- I'm
13 prepared to move on to Item 12.

14 This again you identified as a major item. The
15 statement that this problem may require an accommodation
16 of California State Code or administrative rules to
17 resolve does not provide a separate tally for the canvass
18 process of write-ins.

19 Ms. Mehlhaff spoke to that briefly. But can you
20 amplify from what you have seen in your own analysis?

21 MR. FREEMAN: Well, that basically is tied to the
22 California Code. There's a requirement for a specific
23 report for those write-in tallies. And the procedures
24 that are being used for the RCV, the runoff voting,
25 doesn't seem to provide any sort of report for that

1 purpose. I think that's a pretty easy one to change in
2 terms of additional procedures to try to go ahead and
3 capture program information, but that's an additional
4 burden on the data capture site.

5 PANEL MEMBER MOTT-SMITH: Okay. Anybody have any
6 questions on that one?

7 Item 13. And this I'd welcome you spending
8 whatever amount of time you need to -- between you and Ms.
9 Mehlhaff to make this as clear as possible, because it's
10 an issue of controversy in this application as to whether
11 or not the one-percent manual recount is statistically
12 defensible, whether it does what it's supposed to do,
13 whether it can actually prove that the machine count or
14 the application of the algorithm was correct; and then
15 whether the recount itself -- whether a recount is
16 correct.

17 But if you'd start with the one-percent manual
18 recount and add to what Ms. Mehlhaff -- according to what
19 you found, I'd appreciated it.

20 MR. FREEMAN: Well, my understanding of the
21 California Code and the one-percent recount is that you're
22 only going to be testing one percent of the particular
23 precincts. And the particular algorithm that's used for
24 this ranked voting, the results cannot be validated until
25 you've counted all of the -- the total votes on it. If

1 you had some sort of separate report where you ran this
2 particular algorithm for each of the precincts and then
3 you reran it for the entire county, you'd have a basis for
4 doing that recount based on the manual.

5 But currently there's no such procedures or
6 definition. And from some of the conversation I've heard,
7 it hasn't been decided whether that would be justified. I
8 think that's going to be a decision in terms of people
9 trying to work out the procedures and interpreting what
10 the intent of that particular law is, and I'm not prepared
11 to go to that point.

12 The basic inherent problem is that this algorithm
13 is very sensitive to the total ballots that have been
14 submitted. It can't be broken apart into parts and then
15 added together like you can split up a part of a grocery
16 list. You have to have your totals and all the ballots,
17 all the counts, and their particular rankings to come out,
18 and if they work the algorithm all the way through to the
19 final conclusion.

20 And you have to be able to document what you're
21 doing on that in terms of being able to do that manual
22 audit.

23 Isolated to one percent, you essentially run into
24 separate election audit. If that would be appropriate and
25 is satisfactory under the legislative interpretations,

1 that may be okay. I can't testify to that.

2 Did that help?

3 PANEL MEMBER MOTT-SMITH: Yes, it did. And I
4 think what you -- if I can summarize what you said.
5 Though it may be possible to construct the meaningful
6 one-percent random sample, there is not one currently in
7 the application before us.

8 MR. FREEMAN: That's correct.

9 And there's a question on whether it would
10 actually be adequate in terms of providing confidence on
11 the overall results of the allotted check.

12 ACTING CHAIRPERSON CARREL: But you're suggesting
13 that if there's a one percent -- it may not be meaningful
14 if it's done precinct by precinct but with maybe one
15 percent of the total?

16 MR. FREEMAN: No. The algorithm has to work with
17 all the ballots in because it's very, very sensitive to a
18 few ballots. You can go all the way through, you can do
19 85 percent of it and that one percent's going to throw the
20 results completely over.

21 ACTING CHAIRPERSON CARREL: Okay. So how could
22 you then do one percent based on the fact that one vote
23 could change the algorithm on the total?

24 MR. FREEMAN: Well, that's the cash question.

25 VOTER OUTREACH PROGRAMS DIRECTOR MEHLHAFF:

1 Right. Let me --

2 ACTING CHAIRPERSON CARREL: I'm just wondering if
3 you've -- yeah.

4 VOTER OUTREACH PROGRAMS DIRECTOR MEHLHAFF: I
5 think -- I mean the only way that we have tried to figure
6 out a possible way to do this with algorithm is, as Mr.
7 Freeman indicates, you can take one percent of the
8 precincts, you can take those data sets, you can rescan
9 those, build a database just of the one percent, and run
10 the algorithm against that, and then you can hand check
11 that to see if the algorithm produced the results.
12 However, that's technically a separate election because
13 it's not going to -- you can't compare that to the
14 algorithm that you use for the official final canvass.
15 And so, you know, that's what he was alluding to. You can
16 run a separate one and you'll get results. But you can't
17 compare those results then to the official total. It
18 would be a separate set.

19 ACTING CHAIRPERSON CARREL: Which doesn't achieve
20 the goals of the one-percent manual recount laws because
21 if it -- am I correct?

22 MR. FREEMAN: That's correct?

23 ACTING CHAIRPERSON CARREL: Okay. Which is to
24 take a sample of the entire electorate who voted and look
25 at one precinct to see if it matches up --

1 MR. FREEMAN: -- with the results of that
2 particular precinct.

3 ACTING CHAIRPERSON CARREL: -- with the results
4 to see if there's any problems with the machinery and
5 such.

6 MR. FREEMAN: That's correct.

7 ACTING CHAIRPERSON CARREL: Okay. So I guess to
8 follow-up on that, there's no way of testing the machinery
9 if you're doing a separate election that has a -- that
10 potentially has a completely different result because
11 you're using a precinct that's in an area of town that's
12 favoring someone who doesn't get any votes beyond that
13 precinct and, thus, the algorithm could change to be
14 completely different for the precinct one percent versus
15 the entire tally?

16 MR. FREEMAN: Yeah. But you can make that same
17 argument against current elections. A one percent done in
18 a standard election may not necessarily reflect what total
19 is going to be. All you're doing is confirming by
20 matching with that one percent what records you had from
21 the election that was actually run. The problem with this
22 particular mechanism is you almost have to run a separate
23 subset of precincts ahead of time, run it at the time you
24 run a report against that as well as running a full one,
25 to have a set to match against for the manual recount.

1 ACTING CHAIRPERSON CARREL: But you say this
2 could happen in a normal election. And so I guess the
3 question that I have is: What happens once the
4 one-percent manual recount is done? What happens to those
5 figures? Are they weighed against the total? And if
6 there's a problem, how are they used? Or is it just done
7 and that's the end and here's your results? How does that
8 work?

9 VOTER OUTREACH PROGRAMS DIRECTOR MEHLHAFF:
10 Currently?

11 ACTING CHAIRPERSON CARREL: Yeah.

12 VOTER OUTREACH PROGRAMS DIRECTOR MEHLHAFF:
13 Right. Currently the way that the systems work is ballots
14 are tabulated by precinct, and then those precincts -- so
15 they have a report that says, you know, precinct 1, you
16 know, here's the total. And then those all add up at the
17 end and those are your official results. So you can go
18 back and say, you know, "Let's pull precinct 13, precinct
19 22." You can hand tally those and you can go back to the
20 original, you know, data set that you used for your final
21 total and actually compare those line by line in terms of
22 who won and what the votes were. But this, you don't have
23 that because there's no breakdown by precinct. You're
24 only comparing it to one total, which is the county --

25 ACTING CHAIRPERSON CARREL: How often do

1 registrars end up using a one-percent annual recount to
2 assess deficiencies with the system or with the machines?

3 VOTER OUTREACH PROGRAMS DIRECTOR MEHLHAFF: How
4 often do they do it?

5 ACTING CHAIRPERSON CARREL: Um-hmm.

6 PANEL MEMBER MOTT-SMITH: Every election.

7 VOTER OUTREACH PROGRAMS DIRECTOR MEHLHAFF: Every
8 election.

9 ACTING CHAIRPERSON CARREL: Okay.

10 PANEL MEMBER MOTT-SMITH: Does anybody else have
11 questions about the one-percent manual recount?

12 Could you also talk for a moment about the
13 recount process itself, assuming that it's a complete
14 recount, whether -- whomever requests it. Is it my
15 understanding that in order to do that you would
16 essentially have to forgo the access database and process
17 each one of the ballots by hand?

18 MR. FREEMAN: If you were going to be doing a
19 manual recount, I mean that would be, my understanding of
20 the process, one of the primary steps because you're
21 trying to validate and make sure that every ballot was
22 counted the correct way. Once you got through with that
23 process you could go ahead and do a comparison with the
24 excess database at that point and see if they continue to
25 match. And then if there is some other concern in terms

1 of the overall results of the way they factor the process,
2 you can go ahead and process them through.

3 But I don't think you can shortstop that
4 particular step of doing that manual count if you're
5 actually doing -- supposed to be doing an actual recount.

6 Now, I could be wrong on that. It depends on
7 State law. And I couldn't get into that detail in terms
8 of the recount procedures on whether they required you to
9 physically go through and check each of the paper ballots.
10 If there is some sort of -- legally on that, you might
11 go ahead and be able to just take the information from the
12 database that's been used and do a match against that.
13 But I couldn't make that statement based on your current
14 law.

15 PANEL MEMBER MOTT-SMITH: Well, let's assume that
16 the political attorneys that are involved in the recount
17 would want a ballot-by-ballot comparison. You would
18 essentially then add to the steps that we've got with the
19 callers, the reporters, the writers, et cetera, a
20 secondary manual process where you'd have the same set up
21 each time you wanted to allocate votes. So you'd have
22 additional people capturing, calling, et cetera, for each
23 one of the precincts.

24 Go ahead.

25 MR. FREEMAN: Well, that'd be correct. But I

1 suspect based on the number of people involved you'd
2 probably have to use some of the -- the same teams, you
3 just maybe order -- provide a supervision or layout,
4 trying to change the set of parameters enough that you've
5 got an independent count on that process. That's a common
6 process in elections across the country.

7 PANEL MEMBER MOTT-SMITH: And I'm not sure this
8 is a question for you. Maybe Ms. Mehlhaff can answer it.

9 At what point would it be possible -- at what
10 point or points would it be possible to do a recount? In
11 other words, after you do the count of the first choice
12 ballots, normally under the law there's a presumption that
13 the canvass is complete and the election is certified.
14 But would you be able to request a recount -- let's say,
15 at the third exercise of the algorithm if it had to be
16 done six times, so that there was an issue about which
17 candidate would be dropped off as opposed to another, and
18 one of the candidates higher up or the candidate being
19 dropped off wanted to request a recount, could they
20 request a recount, A; or, B, could the system be auditable
21 back to that point so that if you wanted post
22 certification to be able to request a recount to that
23 third exercise of the algorithm, could you reconstruct
24 back to that in a meaningful way to do a recount from that
25 point?

1 MR. FREEMAN: You possibly could. I'd probably
2 need to be talking with some of the legal counsel about
3 some of the issues on that. The databases actually
4 capture -- provide a fairly strong audit trail of what's
5 going on in that, and you can go back through that process
6 for those captured data tables and see how the votes are
7 being shifted in the past on each of the passes.

8 One of the things that I noted as a minor problem
9 that I would like to see changed or recommended in terms
10 of doing the audit trail is that there is no record
11 initially of how the distributions are of the -- between
12 those.

13 So that would be a nice fast check if you were
14 doing a manual count, because that way we could go ahead
15 and compare the results with whatever manual recount
16 process that you did with it.

17 But without that, you'd have to go through and
18 actually run the whole process through the final
19 conclusion. You can't depend on what the data base has in
20 it.

21 PANEL MEMBER MOTT-SMITH: I guess this goes to a
22 more fundamental question, in my mind, and I'd like you to
23 speak to. And that's, to what degree is the access
24 database independent of any other software to -- or any
25 other manipulation to provide the allocation of votes? Or

1 maybe said another way, how auditable is the access
2 database to the kind of scrutiny that might arise in a
3 recount situation like that.

4 That may be two questions.

5 MR. FREEMAN: It would be difficult just based on
6 the size of the election. But the tables and processes if
7 they were recorded would be very straightforward to go
8 ahead and process it. It would be time consuming, but
9 it's visible, it's easy to follow up and then track --

10 PANEL MEMBER MOTT-SMITH: Okay.

11 MR. FREEMAN: -- as far as an audit goes.

12 PANEL MEMBER MOTT-SMITH: I am interested in a
13 lot of these other -- your missing items, your concern
14 items, your error items, et cetera. But I don't know that
15 for the sake of security -- or brevity that it's going to
16 be productive for me to ask you in this forum.

17 So I think I'll hold my questions for now.

18 ACTING CHAIRPERSON CARREL: Okay. Mr. Gutierrez.

19 PANEL MEMBER GUTIERREZ: Thank you, Mr. Freeman.

20 Following up on what John just asked you. In the
21 document the staff prepared and gave to me there is a
22 report that you prepared that contains 15 pages. You
23 listed 18 concerns that are either missing or major, of
24 which you just covered some of them.

25 And you prepared a transmittal memo, dated June

1 21st, to staff -- I'm sorry -- dated June 23rd, to staff.
2 And you concluded by saying the procedures have
3 significant defects and require further work.

4 Now, that was about a month ago that you wrote
5 that.

6 MR. FREEMAN: That's correct.

7 PANEL MEMBER GUTIERREZ: In that time -- and I
8 know that San Francisco City and County have been working
9 very closely with our staff. Have you gotten any
10 additional information that would cause you to reconsider
11 your assessment and recommendation to this panel?

12 MR. FREEMAN: No, I haven't. There was one call
13 to ask on -- some of the items on it. I had provided an
14 answer to some of the things I was expecting to answer,
15 some of those.

16 Let me mention, most of those 18 items are
17 probably -- could be handled quite well with just some
18 additional details in terms of the procedures. A lot of
19 them were a variation with the procedures that they had
20 written, varied with some of the things that actually
21 occurred during the test. And they just needed to update
22 the procedures -- the written procedures. So they
23 documented what they were actually doing for the election.
24 And that's almost strictly administrative. That's a very
25 straightforward process to go through.

1 PANEL MEMBER GUTIERREZ: Okay. And then
2 following up on the tests, in the document -- again, staff
3 did an excellent job of preparing a lot of supporting
4 information. In the document, it talks about the test
5 that you administered was 300 ballots?

6 MR. FREEMAN: It was 300 ballots.

7 PANEL MEMBER GUTIERREZ: Is that an appropriate
8 sample given the potential size of the vote where this
9 would be used?

10 MR. FREEMAN: No. I would liked to have seen
11 quite a few more. But given the time and the nature of
12 the way the test was set up, the decision was made that
13 morning to go ahead and limit it just to the 300.
14 Originally, we requested 300 per precinct, and we'd like
15 to see a few more than that given the test.

16 But that was done for a time basis. They
17 basically ran the tests in the form of a demonstration of
18 the functions and the operations rather than necessarily
19 wanting a design to evaluate the accuracy of the system.

20 And given that statement, I'd like to say that
21 the system that they did show, I did not see any signs
22 that that test was not necessarily invalid. The only real
23 problems that come up are the issues in terms of loading
24 against the system with a larger election.

25 Those questions about the auditory noise, error

1 over a period of time or would occur under the manual
2 process of doing the manual recounts, the manual reading
3 and verification and recording of the ballots, some of
4 those features require a larger test. But for the basic
5 functionality and operation algorithm, that was probably
6 essentially accurate as far as the logic.

7 ACTING CHAIRPERSON CARREL: Can I add one
8 question.

9 When you looked at sample ballots for your
10 testing, how many candidates and how many offices were
11 being tested at the time? And how does that compare to
12 what's expected for the November election?

13 PANEL MEMBER McBRIDE: Mr. Chair, if I can
14 interrupt.

15 We're having a hard time hearing you. So if you
16 could speak --

17 MR. FREEMAN: -- speak a little closer to it?

18 PANEL MEMBER McBRIDE: Yes, please.

19 MR. FREEMAN: I've often been accused of having a
20 soft voice.

21 I don't remember the exact figures. I don't have
22 them in front of me. But there was something like about
23 six or eight candidates for the race -- I believe it was
24 three races.

25 My understanding is, when the actual election

1 occurred, it's possible for there to be as much as 25
2 candidates. However, not all of the races that are
3 qualified in this particular charter would necessarily be
4 run at every election. I don't know what the actual
5 breakout is, whether it would be three or five races out
6 of the set.

7 ACTING CHAIRPERSON CARREL: Why don't I direct
8 that question to Mr. Arntz.

9 Do you have any idea how many likely candidates
10 or average number of candidates per office and how many
11 offices are up in your November election?

12 MR. ARNTZ: There's three offices, the Mayor, the
13 District Attorney, and the Sheriff's race. Until the last
14 day of nominations and the candidates have put forward the
15 proper paperwork and the fees to be a candidate, you don't
16 know. So there's 24 people that take out forms to run as
17 Mayor. How many will actually follow through, I could not
18 tell you at this point. I expect there would be at least
19 six to seven as a minimum.

20 ACTING CHAIRPERSON CARREL: And do you know how
21 many have taken out papers for the other offices?

22 MR. ARNTZ: Two people for Sheriff and I think
23 around five or six for D.A.

24 ACTING CHAIRPERSON CARREL: So they're pretty
25 comparable to the testing?

1 MR. ARNTZ: Right.

2 ACTING CHAIRPERSON CARREL: Okay.

3 PANEL MEMBER GUTIERREZ: Thank you.

4 Going back to the random sample size -- or not
5 random sample -- I'm sorry -- to the test size of 300.
6 Again, in your analysis you pointed out that the test was
7 adequate for you to be able to identify concerns and
8 issues of that nature, but not large enough for you to be
9 able to include that the system indeed met all the
10 requirements and standards that were appropriate?

11 MR. FREEMAN: I don't think I said that. I think
12 what I said was, it wasn't large enough for us to be able
13 to validate how long it would take to do the test or
14 approximate over the more lengthy time.

15 PANEL MEMBER GUTIERREZ: Thank you for that
16 clarification.

17 Can you tell me about what size test you would
18 need to be able to come to that conclusion?

19 MR. FREEMAN: Just as a rough estimate, I'd have
20 to answer from a -- do some work in terms of some
21 calculations on that. But I would say it would probably
22 be something like about a third to a quarter size of the
23 election.

24 And actually a more practical approach because
25 it's very, very dependent on the facilities that's being

1 used, the actual procedures, the people that are being
2 used and everything else would be to designate the first
3 election instead of those safeguards and evaluate from
4 that.

5 Any type of tests that we do as a sub-sample,
6 under most particular conditions, probably are going to be
7 suspect in terms of being adequate in the light of what
8 we'll do with it. All we could do is just provide some of
9 the basis for it. The 300 though is not enough to be able
10 to evaluate the loading that is occurring in the case
11 of -- particularly if it wasn't a long enough test to --
12 didn't include enough of the players involved.

13 PANEL MEMBER GUTIERREZ: And then my final
14 question, Mr. Chairman.

15 Your colleague, Mr. Nageley, wrote his letter on
16 the 21st of June, and in it he also described the system
17 as having significant defects, both to design and in
18 operation. Are you or staff in a position to
19 generalize -- or comment in general about that letter? Is
20 there anything that he has received that might cause us to
21 believe that his assessment is changed?

22 MR. FREEMAN: The last time I talked with him he
23 was quite happy with the details as included in mine. His
24 observations were much the same. He didn't have anything
25 new to add to it.

1 PANEL MEMBER GUTIERREZ: Thank you.

2 ACTING CHAIRPERSON CARREL: Thank you.

3 Mr. Soriano.

4 PANEL MEMBER SORIANO: I just had a couple
5 questions, first for Director Arntz.

6 The first question had to do with what you had
7 mentioned at the beginning of your report, stating that
8 there was a fundamental difference between what staff's
9 report was and your opinion with regard to tying the votes
10 to the precinct.

11 Could you elaborate on that some more.

12 MR. ARNTZ: It's not tying the vote to the
13 precinct. But of course the votes are done in precinct.
14 You have some information for that precinct, and that's
15 your record.

16 Where the difference is, and I think it's a legal
17 difference, is the algorithm is something that would be
18 tested in logic and accuracy before the election -- prior
19 to the election, just as the tabulation software is tested
20 and logic and accuracy prior to an election now. I don't
21 think there's a difference in that. We've got an
22 algorithm now that is different than just a straight one
23 plus one plus one software that we use presently.

24 But when it comes to the one-percent manual
25 tally, when it comes to the recount, we did make our

1 system where we had to somehow justify and use an
2 algorithm for that precinct's information. And it's the
3 same thing that happened now with our tabulation software.

4 We don't go back and justify the tabulation
5 software for an entire election based on seven precincts
6 that are randomly chosen for the one-percent manual tally.
7 What we do with the one-percent manual tally is we go back
8 and make sure the Department counted correctly at the
9 precinct level. It's the same thing we do with our ranked
10 choice voting system. Tying the software to the actual
11 physical count of the precinct is not, I don't think,
12 what's done now. But that -- and to add that criteria on
13 to the ranked choice voting algorithm is what I think is a
14 fundamental difference between our approach and the report
15 before us.

16 PANEL MEMBER SORIANO: Thank you.

17 And the second question was for Dawn. And, that
18 is, do you know if the current vendor has any type of
19 equipment that would be addressing the issues that you're
20 bringing up?

21 VOTER OUTREACH PROGRAMS DIRECTOR MEHLHAFF: The
22 Department's current vendor is ES&S. And they currently
23 have a modification to their Optech Eagle in federal
24 testing. They have it at the software ITA, also at the
25 hardware ITA. It's my understanding that the software ITA

1 testing is complete. We were originally told that we
2 would have a report the first week in July. As of today
3 we still have not received that report. And we have not
4 received anything from the hardware ITA.

5 So as of right now their application is pending
6 those reports. But they have proposed a system that would
7 automate this. And that is why the Department has laid
8 out the ballot in the format that they have, is that that
9 would be similar -- the same format that the Optech Eagle
10 would be able to read with these modifications that the
11 vendor has at the federal testing authorities.

12 PANEL MEMBER SORIANO: Thank you.

13 That's all I have, Mr. Chair.

14 ACTING CHAIRPERSON CARREL: Thank you.

15 Mr. Mott-Smith.

16 PANEL MEMBER MOTT-SMITH: Mr. Freeman, just two
17 for you. And then, John, I have a couple of questions for
18 you, if you don't mind.

19 I neglected -- I apologize -- to talk about or
20 ask you about No. 15 and No. 17, both of which you
21 identify as concerns.

22 No. 15 is the absence of security, with the fully
23 defined security procedures.

24 Can you expand on that at all?

25 MR. FREEMAN: I listed those as concerns because

1 I wasn't sure what the history and the background on that
2 particular passage was and the procedures.

3 There's a procedure listed for the security. And
4 what it basically referred to was some sort of ruling or
5 law or something -- I don't have a reference for it --
6 that said that they had to provide security procedures
7 within a year.

8 And at the conclusion of that year, it was
9 possible for the director of elections to go ahead and
10 file and say that they weren't able to complete it and
11 there was other details in terms of request a waiver, not
12 try and complete it. My concern was that it was -- the
13 way that that particular passage was, it did not address
14 the security procedures for the manual recount -- or
15 excuse me -- the ranked choice voting. It seemed to refer
16 to some of the procedures that may have referred back to
17 the Optech Eagle system. And it essentially didn't
18 complete it. Says it would be done in the future.

19 I don't have a problem with that in one sense.
20 Trying to come up with procedures like that's a very
21 difficult process, and actually is an ongoing process. I
22 would just like to have seen the details, and that's where
23 my concern was, on what security was being provided in
24 terms of protecting the -- for example, the excess
25 database, the systems that were being used, some of the

1 procedures that they were using to confirm and verify that
2 those type of security risks are an actual event that
3 might have indicated a loss of integrity of the election
4 or security issue.

5 But it's nothing there. And I think that should
6 be added and included even if it's not necessarily
7 complete.

8 PANEL MEMBER MOTT-SMITH: And number 17.

9 PANEL MEMBER CARBAUGH: I have some questions
10 relative to security.

11 On that note, could you explain in a little more
12 detail what the application states with regard to security
13 of the counting teams, the various venues, whereby the
14 counting teams would be doing their work, et cetera,
15 because that's not clear to me.

16 MR. FREEMAN: It wasn't clear to me either.
17 That's the reason I had a concern.

18 Most of what I picked up in terms of security was
19 some things that I observed or overheard, the admission of
20 the fact that it was supposed to be uniform personnel that
21 were going to provide the physical security for the
22 ballots during this process. Obviously, in a process like
23 this this is going to continue over days, so those ballots
24 are going to have to be held and stored in a facility.
25 And there's going to be a large number of them. There's

1 some issues about trying to provide adequate protection
2 for that. The only thing I've heard on that one would be
3 the uniform procedures -- the uniformed police officers or
4 law enforcement officers who are supposed to be available.

5 Some arrangements -- physical arrangements of
6 where it's going to be stored, where the process is going
7 to be handled. I'd really have to just recommend to refer
8 that particular question to Mr. Arntz in terms of what
9 they're planning -- what they're doing on that. It was
10 not documented in the procedures.

11 PANEL MEMBER CARBAUGH: It's not in the
12 application?

13 MR. FREEMAN: Right.

14 PANEL MEMBER CARBAUGH: Okay. And perhaps then,
15 Mr. Arntz, you could maybe address that question. I'm not
16 clear at this point in time -- I did observe your manual
17 count demonstration about a month ago. And I know we were
18 all in one location. For example, how many locations
19 would be required to complete this task? And then what
20 kind of security arrangements do you have?

21 MR. ARNTZ: Okay. Let me back up a bit, too.

22 On the application that we -- the format that we
23 filed, I don't remember specifically there being a
24 requirement for security issues to be addressed. I could
25 be wrong about that. And also when it comes to us saying

1 we'll defer for a year any explanations of security for
2 the ranked choice voting cards, essentially we used the
3 procedures for our Optech system and we integrated into
4 that the procedure for our ranked choice voting system.
5 And I think when we went through those procedures, we
6 assumed that that year had passed and there already --
7 there already were security explanations to provide the
8 Secretary of State's office regarding the Optech system.

9 Now, when it comes to security in San Francisco,
10 we've had some charter amendments. And I think we've got
11 the tightest security of any county in the state when it
12 comes to the movement and the protection and the sanctity
13 of the votes. As far as a place -- the number of places
14 that we use to count these cards, we expect to have one
15 place. We don't have that place identified right now.
16 But the diagrams you have in our application package shows
17 that we'll have one location where all the ballots will
18 come and they'll stay there until the vote is complete.

19 ACTING CHAIRPERSON CARREL: I follow from what
20 you just said, you don't have a location. Obviously if
21 you need 50 teams of how many people? -- four or five
22 people -- and then there's likely going to be media
23 interested and likely there are going to be observers who
24 are interested in observing the process, that presents
25 some security issues, but it also presents a huge space

1 issue. And were you anticipating doing it in one location
2 or in separate locations? And how much space do you need?

3 MR. ARNTZ: It would take around 30,000 to 40,000
4 square feet to run this system. And we want to do that in
5 one location. It would be very difficult to organize this
6 and to maintain organization with several locations.

7 ACTING CHAIRPERSON CARREL: And how many venues
8 in San Francisco have that type of space available?

9 MR. ARNTZ: I don't know. I've never counted it
10 out. But at the same time, this is an application for
11 this process. And this is not a process that is the first
12 choice for San Francisco. It's basically a fallback idea.
13 And so I don't think that we can be criticized for not
14 having a place at this point. If this were to be
15 certified and the election were going to happen using this
16 system, of course we'd find a location for it.

17 ACTING CHAIRPERSON CARREL: No, I don't mean my
18 questioning to be a criticism. I mean my questioning to
19 be an opportunity to understand really the limitations
20 that you're facing. And if there are only three venues or
21 four venues and none of them were available, then
22 obviously there's a problem there. And that's sort of
23 what I'm trying to understand, how much space that you
24 need and, thus, how many venues that could accommodate
25 that space might be available and might not be available.

1 And you're talking convention space, you're talking
2 stadium space, that kind of thing.

3 PANEL MEMBER CARBAUGH: Mr. Chair, I'm just
4 not -- please don't consider this as criticism. But it
5 does get back to the question of, you know, how many
6 tables will be in a single location and the spacing
7 between the tables and then the ability for those who are
8 doing the counting to actually hear what's going on. So
9 the noise volume is a consideration for us.

10 ACTING CHAIRPERSON CARREL: And I know that it
11 may not -- I wasn't at the test, so I don't know exactly
12 how this looked or how it worked. But I do have a concern
13 about the audio people being able to hear. And in large
14 areas like that, particularly with cement floors,
15 sometimes there are problems with hearing things.

16 But also with regard to the space, if you're
17 going to have small teams doing this, how are you planning
18 on accommodating people who wish to observe from the
19 different parties, the different campaigns or what have
20 you?

21 MR. ARNTZ: It's also in the diagram submitted
22 with the application. And we want to get people as close
23 as we can to the actual process so they can observe the
24 ballots, actually having people interfering with the flow
25 of the cards and the capturing of information from the

1 cards.

2 And when it comes to observers, especially with
3 something new, we start off with one idea. Then if people
4 don't like it, you have to make some changes along the
5 way. So I think what you have before you, whether there's
6 actually an area for folks to go to observe could be
7 changed to allow even greater access and greater
8 observation of the process.

9 ACTING CHAIRPERSON CARREL: Okay.

10 PANEL MEMBER CARBAUGH: I'm --

11 ACTING CHAIRPERSON CARREL: Did you have a
12 question?

13 PANEL MEMBER CARBAUGH: Yeah, on a different
14 issue. But I'd like to go back to the question pertaining
15 to ties. And I'd like staff to address specifically:
16 What does the application suggest in terms of resolving a
17 tie? And then how does that comport with State law?

18 MR. FREEMAN: I think I might be able to try to
19 answer that one.

20 The procedures specify that in a case of a tie,
21 during the earlier phases of the voting, the calculation
22 in terms of the algorithm, that if the two tied candidates
23 represent less than 50 percent of the vote between them,
24 then both of the candidates will be eliminated and the
25 votes -- the subsequent votes at the lower ranking for

1 those particular ballots that listed those candidates will
2 be distributed to the more successful candidates.

3 This is fine and works well in terms of the
4 overall algorithm. Where the problem comes up though is
5 when we get into that final ranking, we're trying to make
6 a final choice. It came up on the test that if you
7 have -- at the tail-end of that process you have one
8 candidate that has a larger number of votes than the other
9 two candidates, but the other two candidates form a tie,
10 and the total between them is greater than the -- I'm
11 trying to remember exactly the way the rule read.
12 Essentially it was that the two candidates were greater
13 than the number of votes that were recorded for the
14 winning candidates, those that were being retained, then
15 that particular rule defined within the procedures doesn't
16 apply.

17 In that case, the way that the procedure in the
18 application is written, it delegates to the State rules in
19 terms of how the tie is to be resolved. In the State
20 rules there's a distinction between a primary and a
21 general election. And even though technically those
22 candidates -- those races are within San Francisco in
23 municipal elections -- municipal races, they're
24 qualified if they come during a primary election as
25 qualifying under the primary rule under the California

1 Code. And counsel can verify this probably better than I
2 could.

3 That's where the problem came up, in that final
4 stage where we had -- the count came up in an actual case
5 for the testing. The results were -- one of the
6 candidates was Florence Nightingale with 40 percent of the
7 votes; Thomas Jefferson had 29.89 percent; and Eric
8 Derson, 29.89 percent. Those two totaled more than the 40
9 percent.

10 That's where we have an issue and a concern, that
11 the application procedures don't apply and the State rules
12 start becoming a factor, where it requires either that a
13 lot that has to be done, supposedly public the way I read
14 the rules, or it has to be a runoff election, depending on
15 whether it's primary or general.

16 PANEL MEMBER CARBAUGH: Okay. Thank you.

17 PANEL MEMBER MILLER: Mr. Chairman, I apologize
18 to you and to Mr. Gutierrez for being somewhat repetitive.
19 But in my youth, I had the privilege of working with Bob
20 Nageley for two decades when I was in the Secretary of
21 State's Office, and he knew more about election equipment
22 than I will ever know about election equipment. And I see
23 in his letter dated June 21st, he writes, "I believe that
24 there are significant defects in the design and operation
25 of the IRV system. Unless these defects are corrected,

1 the system is not acceptable for certification."

2 And there's been no update with respect to this,
3 as far as you know, there's been no retraction of that?

4 VOTER OUTREACH PROGRAMS DIRECTOR MEHLHAFF: No.
5 I spoke with Mr. Nageley last week. And there's -- his
6 opinion is still that he feels that there are too many
7 unresolved issues in terms of procedural issues which, you
8 know, could be corrected; but more significantly, in terms
9 of the logic and accuracy component and the conflict
10 between the proposed application, the charter, and the
11 State Elections Code, he feels that those are too great to
12 warrant certification at this time.

13 PANEL MEMBER MILLER: Thank you.

14 ACTING CHAIRPERSON CARREL: Any further
15 questions, Mr. Miller?

16 PANEL MEMBER MILLER: I'm done.

17 PANEL MEMBER GUTIERREZ: Yes, thank you.

18 This is directed at staff.

19 Between Friday and this morning, I received three
20 stacks of paper from Mr. Steven Hill, one as late as 1:46
21 today.

22 I wonder how that happened.

23 And they both reference a May 16th memo from Mr.
24 Arntz addressed to John Mott-Smith providing information
25 about the election. Did you have an opportunity to review

1 that memo and consider it in your analysis?

2 VOTER OUTREACH PROGRAMS DIRECTOR MEHLHAFF: Yes,
3 I did.

4 PANEL MEMBER GUTIERREZ: And the same with our
5 two consultants?

6 VOTER OUTREACH PROGRAMS DIRECTOR MEHLHAFF: Yes.

7 PANEL MEMBER GUTIERREZ: Thank you.

8 ACTING CHAIRPERSON CARREL: Are there any other
9 questions, or should I take my turn?

10 I'll take my turn.

11 I have questions regarding the ballot design. I
12 also have questions regarding training of the poll workers
13 and the counters. And let's go with the training first.

14 How long do you perceive the -- how much training
15 is needed, how much time is needed for recruitment, and
16 what's the process that you anticipate happening?

17 MR. ARNTZ: For poll workers?

18 ACTING CHAIRPERSON CARREL: For poll workers,
19 yes.

20 MR. ARNTZ: The training, we have an extra
21 training class for the poll workers which is focused
22 specifically on ranked choice voting procedures and also
23 nomenclature and also the process involved at the polling
24 places on this. That'd be a three-hour class. And we'd
25 essentially provide the poll workers with an extra stipend

1 and bring them in and encourage them to -- the class.

2 And as far as other -- I guess I think you're
3 trying to --

4 ACTING CHAIRPERSON CARREL: I'll tell you what
5 I'm trying to --

6 MR. ARNTZ: -- on the outreach, more or less.

7 ACTING CHAIRPERSON CARREL: Yeah.

8 MR. ARNTZ: And the outreach would start within a
9 week or so from this point. We've been -- Wednesday
10 there's a committee meeting under the Finance Committee to
11 release the funds to pay for some outreach for ranked
12 choice voting. So they would start in a week or two to
13 get this citywide with information on ranked choice
14 voting.

15 ACTING CHAIRPERSON CARREL: Okay. Let me ask
16 about the ballot design, and even less about the design
17 than what I perceive potential confusion that staff talks
18 about in their report. I'm confused, and I think voters
19 may be confused, because I don't think that there's enough
20 clarity on this. But how are you dealing -- or how do you
21 anticipate dealing with undervotes and overvotes? And by
22 that I mean, if an over -- if a person places one first
23 choice -- marks one candidate for first choice but two for
24 second choice, does that eliminate the entire ballot, is
25 that thrown out, or does it only eliminate the second

1 choice if and when you get to the second choice?

2 MR. ARNTZ: If the voter marks the same two
3 candidates for the first and second choices?

4 ACTING CHAIRPERSON CARREL: No, that's another
5 question entirely.

6 Let's say you have A, B and C candidates. They
7 vote for A their -- or A, B, C, and D. They vote for
8 candidate A as their first choice, but A is eliminated.
9 They vote for both B and C, which is an overvote, having
10 cast two votes when only one is allowed, for the second
11 choice. They intended on voting on the third, but they
12 actually voted both in the same column for second.

13 How would you address that? Do you throw out the
14 entire ballot and not count the first choice? Or do you
15 anticipate just throwing it out if you get to the second
16 choice? Or is that never addressed?

17 MR. ARNTZ: I don't know if it's addressed in our
18 procedures. It's in the charter. But I think in their
19 application, no.

20 ACTING CHAIRPERSON CARREL: How does the charter
21 speak to that?

22 MR. ARNTZ: I believe in that instance the third
23 vote would still move forward in the count.

24 ACTING CHAIRPERSON CARREL: So you would count
25 them -- you would count that ballot for its first choice,

1 but you'd throw it out for its second choice?

2 MR. ARNTZ: The second choice -- the third choice
3 would become the second choice I think is how it works.
4 If I'm wrong, then --

5 ACTING CHAIRPERSON CARREL: How do you address
6 undervotes? Will the poll workers who receive the ballots
7 inform the voter that they have a vote for second or
8 third, then have to ask if they're voting for second or
9 third?

10 MR. ARNTZ: Well, we just signed a contract with
11 our vendor not too long ago. And the Eagle machines --
12 and I think this could be done even if the vendor does not
13 get certified with ranked choice voting system. The Eagle
14 machines -- Optech 3B Eagle machines can be programmed to
15 look at these markings on the cards so that if the first
16 choice is filled, second choice is skipped, third choice
17 is filled, the card we kick back out, and error message on
18 the tape saying, "You did not fill in your second choice."
19 And then the voter has a -- can choose at that point to
20 fill that slot in.

21 And the voter can choose not to fill that slot in
22 too. And it can go into the Eagle machine not being
23 filled.

24 ACTING CHAIRPERSON CARREL: So is a voter allowed
25 to vote for only second and third and not to vote for a

1 first choice?

2 MR. ARNTZ: If the voter chooses to, yes.

3 ACTING CHAIRPERSON CARREL: I'm curious. I
4 mean -- and if a voter does vote for a first, they don't
5 have to vote for second, and then they can vote for third?

6 MR. ARNTZ: Um-hmm.

7 ACTING CHAIRPERSON CARREL: Okay. Can they vote
8 for the same candidate first, second, and third?

9 MR. ARNTZ: They can, but they have -- basically
10 the choice will come only for the first -- the first
11 round, the first choice.

12 ACTING CHAIRPERSON CARREL: And does the machine
13 detect that or will that have to be detected if you get to
14 the second round?

15 MR. ARNTZ: No, the machine will detect at that
16 point. And it also will be detected again if we are to do
17 this manual data capture system.

18 ACTING CHAIRPERSON CARREL: So if the machine
19 detects it, is it segregated so that the people make sure
20 they don't count it or is it marked in some way? How --

21 MR. ARNTZ: No, it wouldn't be segregated because
22 it's an overvote. And physically all the ranked choice
23 cards would be segregated from the -- let's say, the
24 measure cards we have in San Francisco. And all the
25 ranked choice cards would go to the auditorium or the spot

1 we have to review this information for the data capture.
2 Basically, that card would be reviewed a second time by
3 people versus an Optech III-P scanning machine.

4 ACTING CHAIRPERSON CARREL: Okay.

5 Ms. Mehlhaff, you're shaking your head.

6 VOTER OUTREACH PROGRAMS DIRECTOR MEHLHAFF: I
7 disagree with the Optech Eagle portion of it. My
8 conversations with the vendor is that those fields will be
9 essentially turned off on the Eagle. So the Eagle will
10 only read the first choice. And so it will give the voter
11 a notification if in that first choice -- if it's an
12 overvote or undervote for the first choice, the Eagle will
13 give the voter notification. But it's going to be blinded
14 to the second and third choice columns is how I understand
15 it speaking directly with ES&S, the vendor.

16 ACTING CHAIRPERSON CARREL: But it will pop out
17 and the voter will have an opportunity to cast a second --
18 cast a replacement ballot to fix the problem?

19 VOTER OUTREACH PROGRAMS DIRECTOR MEHLHAFF: Only
20 in that first choice column. Because the way the ballot
21 is listed, it will list every candidate's name and say --
22 and the block above it says, "Vote here first choice
23 candidate. Then it will relist those candidates a second
24 time and ask that the voter vote for a second choice
25 candidate and then it will list the same candidates a

1 third time. And my understanding based on talking to ES&S
2 directly is that it will be blinded to those second and
3 third fields, because that's a memory issue in terms of
4 the system and it will only capture the first choice.

5 ACTING CHAIRPERSON CARREL: Okay. So as I'm
6 understanding it -- and feel free to comment. As I'm
7 understanding it, the Eagle counts only the first choice;
8 and only if you get to an issue where there's no majority,
9 over 50 percent, that do you do a hand-counted second and
10 then a hand count of the third, and that the Eagle doesn't
11 have the memory to input the ballot images for the second
12 or third choices?

13 MR. ARNTZ: Correct.

14 VOTER OUTREACH PROGRAMS DIRECTOR MEHLHAFF:
15 Correct.

16 MR. ARNTZ: Right. And Dawn -- and Ms. Mehlhaff
17 was correct also. I think the way it is set up in our
18 application is you get a machine to just look at the first
19 field, the first choice. It would not scan over a second
20 and third choice with different information.

21 However, I do think it's possible to turn the
22 Eagle machine on simply to scan those fields and to
23 provide error messages to the voters about trying to
24 capture the ballot in the -- in the ballot information
25 because that's where the memory is to adopt -- to capture

1 the information but not reviewing of the information.

2 ACTING CHAIRPERSON CARREL: Okay. I did see an
3 example of the ballot, which lists the same candidates
4 three times, which to me when I saw it was extremely
5 confusing because I thought why am I voting -- why would
6 someone vote for the same election? Then I realized that
7 you have to vote for first, then second, then third.

8 Is that the only way that the Eagle could read
9 these ballots? Is there any other option available such
10 as the three column system that would be available under
11 Eagle, or is the Eagle limited in that way?

12 MR. ARNTZ: Well, the Eagle can read in one, two,
13 and three column fields. So there are alternatives. So
14 that's a very straight answer to your question. You want
15 to ask me more I think on this issue, your staff --

16 ACTING CHAIRPERSON CARREL: Well, I just find
17 that the design that we're evaluating seems confusing.
18 And when you're dealing with confusion, you can either
19 simplify it or you have to do some training to explain how
20 it's to be used. And I don't -- I presume because this is
21 the application you're going to have to deal with voter
22 education to explain how this is going to work. And so
23 only in very small words, do not -- don't repeat your
24 second -- first choice and then when there's a third,
25 don't repeat your second or first choice.

1 But it's sort of hidden because you have three
2 languages on there as well. So there's a lot of text in
3 addition. And I don't know how you plan on getting around
4 it, or if you provide more information to voters ahead of
5 time or more training by poll workers or what, how you
6 anticipate overcoming some of the initial problems such as
7 simple voter confusion or voter -- a lack of voter
8 knowledge about this process.

9 MR. ARNTZ: Yeah, I mean the first time through
10 is especially you get a lot of voter confusion I think,
11 and that's why the outreach is so important. And what's
12 the best way to have the outreach, when is there too much
13 or enough outreach? I mean those are the tough decisions
14 to make. But I think one thing that would really help a
15 lot is on election day itself if you have information at
16 the polling places directing voters how to mark those
17 cards.

18 So if you have poll workers who are there
19 assigned specifically to a precinct to discuss ranked
20 choice with the voters, that would also allay a lot of
21 fears that we have the voters being completely confused.
22 And that's -- marked the cards on election day. Even if
23 we have that form that is presently used, where are they
24 asked about and how are they going to be addressed and are
25 you -- particularly with those, does that delay the time

1 of the initial count particularly because the algorithm
2 has to be -- can only be used after the entire count is
3 complete, and how do you anticipate the counting for all
4 of that?

5 MR. ARNTZ: With our system, those provisions
6 will follow the same process that you could do right now.
7 It would not delay the counting because we have those --
8 the manual capture becomes an automated processing once we
9 captured the data. So you can introduce new information
10 later in the process for the same precinct. And the
11 automated portion of our process can draw together the
12 information that came at two different times from the same
13 precinct in the evaluation. But it shouldn't delay the
14 counting.

15 ACTING CHAIRPERSON CARREL: Do you have any other
16 questions?

17 PANEL MEMBER MOTT-SMITH: I do. But I think
18 we're going to get to legal issues --

19 ACTING CHAIRPERSON CARREL: Okay. Are there any
20 other questions from the panel to the applicant or to
21 staff before I move on to public comment?

22 No. Okay.

23 Well, I have over 30 cards. So that's both a
24 blessing and a curse. It means we will get a chance to
25 hear from all of you. But it also means it's going to

1 take quite some time to go through this.

2 So I would ask for the following -- I do have
3 some on here who've listed the same organization. And as
4 I said earlier, I would have hoped that only one person
5 speak on behalf of an organization. When I get to them,
6 I'll ask who's speaking on behalf of the organization and
7 who's speaking on behalf of themselves.

8 We also have some speakers who have requested to
9 speak prior to this meeting. So I will allow them to go
10 first. That would be Steven Hill, Tom Schulz, Richard
11 Shadoian, Tom Willis, David Lee, and Sabrina Saunders.

12 So you don't have to stand up there. I'll remind
13 you who you are. But why don't we start with Mr. Hill.

14 MR. HILL: Steven Hill, Center for Voting and
15 Democracy.

16 I just want to say, first of all, the Center is a
17 nonprofit, nonpartisan organization. It specializes in
18 this odd field of voting electoral system. And we've
19 consulted with other jurisdictions, have implemented and
20 used ranked ballot systems like New York City, Cambridge,
21 Massachusetts. Also PriceWaterhouseCoopers, which is the
22 large accounting firm in the world, we consulted with them
23 on their ranked ballots international elections to elect
24 their international board of directors.

25 I'd like to address my comments to the specifics

1 of the staff's report, because I think that they're -- you
2 know, it's fair to say for a lot of you this is all new
3 stuff. And so I'm not surprised that there's a bit of
4 confusion. But in terms of canvassing for write-ins and
5 recounts, I want to state unequivocally that you can do
6 canvassing of a one-percent tally and of recounts in a way
7 that complies with the State law. And to understand how
8 you do that you have to understand a couple of things.

9 I only have one minute left?

10 ACTING CHAIRPERSON CARREL: We have two minutes
11 for each speaker.

12 MR. HILL: Well, my understanding was that people
13 who got their comments in before July 11th would have a
14 bit more time to address the main points. But not --

15 ACTING CHAIRPERSON CARREL: I don't know where
16 that information was from. But because you're under that
17 assumption, I'll give you a few more minutes. But it is,
18 as I said at the beginning of this meeting, two minutes
19 per speaker.

20 MR. HILL: There are two parts to a recount.
21 First is the data capture. And then the second part is
22 the tabulation. And that's irrespective of RCV or just a
23 straight plurality winner election. The data capture you
24 can do for one precinct, you can do for several precincts,
25 you can do for all precincts. It's no different than what

1 you do now. You capture data and you compare it to your
2 previous results. You're trying to get a one-percent
3 manual tally to figure out: Didn't your equipment work
4 and is the process recording ballots accurately?

5 And you can do that with this RCV election
6 because you're capturing the data a second time and you're
7 comparing it to your previous results. So you can see,
8 you compare the first, second, and third rankings on both
9 slates of information to see if they correspond to each
10 other.

11 Then the second point is when you go to do the
12 tabulation. In order to do a citywide election, for
13 instance, you're capturing all the data by precincts. And
14 when you aggregate that data into a citywide data set to
15 do the RCV tabulation, you can absolutely reverse that
16 data set to go back to each precinct's individual data
17 set. And so if you have done any kind of recount or any
18 kind of one-percent manual tally where you had come up
19 with a different result, you can take that new result from
20 that specific precinct or for a couple of precincts,
21 however many you've done to recapture the data for, and
22 you can now substitute that into your overall citywide
23 data set. And you can rerun the tabulation. And it takes
24 just a matter of minutes to do the final tabulation.

25 So all the things that you have to do now for

1 your one-percent manual tally or any kind of candidate or
2 voter recount, you absolutely can do with an RCV process
3 as well -- it really isn't different -- as long as you can
4 keep in mind you have to separate out the precinct-based
5 data set from the RCV tabulation. They're really --
6 they're the same. They work exactly the same.

7 And so I think that the staff really needs to go
8 back and look at that and kind of grapple with that a
9 little bit more to see that they really are the same, and
10 they do comply with State law.

11 In terms of ties. I guess I can take claim for
12 some of the confusion here because I was the one that
13 wrote the charter amendment, myself and my colleagues at
14 the Center for Voting and Democracy, we gave it to the
15 city attorney. And our intention absolutely was to
16 conform with 100 years of tradition of instant runoff
17 voting, ranked choice voting. And you absolutely break
18 ties with lots. It's the only way to do it.

19 And why would you have a runoff within a runoff
20 system? It doesn't make any sense. You break a tie with
21 a lot. That's how it's always been done with instant
22 runoff voting. Whether it's your third or fourth
23 candidates who are tied or your seventh or eighth who are
24 tied, you break it with a lot or a coin flip.

25 When we put conformity with the State law, what

1 we were thinking of was, you know, some places do it with
2 a coin flip, others do it with drawing lots. We'll do
3 whatever California does. California draws lots. That's
4 what we were thinking. That was the intent. And
5 absolutely that's how you should break ties with an
6 instant runoff voting, ranked choice ballot system.

7 In terms of -- I'm moving fast here because I
8 really don't have much time. In terms of the ballot
9 design, as was said, the Eagles had error notification.
10 The plan originally was to turn off the second and third
11 columns for -- of the Eagle because they're not capturing
12 the data in this particular procedure, they're not
13 capturing ballot images. But if you think of each ranking
14 as an individual race on the card, the Eagle can read each
15 one of those rankings. It just can't capture the full
16 ballot image. That's what you need the extra memory for.

17 So it's absolutely possible to turn on the other
18 two -- columns 2 and 3 and to have error notification in
19 the Eagle for all three of those rankings. And so, you
20 know, in terms of voter confusion and these sorts of
21 things, that's the first line of defense is that there is
22 instant voter notification of -- error notification in the
23 precinct. It spits the card back out and says, "You
24 didn't list the number 2 ranking. You now have the option
25 of doing that." Okay, so that's number 1.

1 You also should know that the Board of
2 Supervisors of San Francisco had allocated \$750,000 for
3 voter education in order to educate the community. And
4 most -- and a good chunk of that money is being given to
5 community-based organizations and also to ethnic media in
6 order to do specific outreach into English and second
7 language communities and to minority communities and to
8 communities who we're most concerned may have the most
9 problems with it. So we have been giving some thought to
10 that. We could certainly do more, but I think there is a
11 workable solution there.

12 In terms of another layout, the sticking point
13 there was particularly the Mayor's race because there's so
14 many candidates in the Mayor's race they were going to
15 have to go down one column and up to a second column.

16 ACTING CHAIRPERSON CARREL: You have one more
17 minute.

18 MR. HILL: But in most races you absolutely could
19 just use all the candidates down one side and just have
20 your rankings being first choice, second choice, third
21 choice in the other three columns.

22 In terms of the logic and accuracy test. Yes, it
23 needs to be done. We have experience. We've consulted
24 with others in doing logic and accuracy tests for instant
25 runoff voting elections. And you're pretty much doing the

1 same as you do now, is -- but when it comes to the
2 tabulation, you have to have your test deck ready to --
3 you know, to run your simulated election and to make sure
4 that the logic and accuracy test works for ranked choice
5 voting.

6 There are some other more minor issues that have
7 been raised having to do with audit trails. Keep in mind
8 you have three copies of the ballot. This is probably the
9 most audible election in the State of California because
10 of so many copies of each voter's ballot. So I think
11 that, you know, the procedures can easily be construed as
12 a way to make sure you have enough of an audit trail.

13 There also should be a way to make sure that the
14 pre-election is set to zero. And, you know, these things
15 are all doable.

16 So I -- and my final -- I would say to you is
17 that there are issues here to be addressed, but to my mind
18 they don't rise to the level of defect to the point where
19 this application should be rejected. That's what you have
20 a conditional acceptance status for. And to me this
21 application is a perfect example of one that rises to the
22 level of conditional acceptance, and then you work in
23 partnership with the Department of Elections to make sure
24 that this works. The voters passed this, and this is the
25 law of San Francisco.

1 ACTING CHAIRPERSON CARREL: Thank you.

2 (Applause.)

3 ACTING CHAIRPERSON CARREL: All right. I
4 appreciate the support for -- I wish the applause were for
5 me. But I appreciate the support for Mr. Hill.

6 But he had seven minutes. I don't want to
7 prejudice anyone else who was under that belief and
8 provided information beforehand. But we can't give
9 everyone seven minutes. We just don't have the time. So
10 I would ask that people stay within their two-minute
11 allotment.

12 Next I believe I called Tom Schulz from the San
13 Francisco Elections Commission.

14 MR. SCHULZ: Good afternoon. I'm one of the San
15 Francisco Elections Commissioners, one of the
16 Commissioners that actually worked with the Department
17 staff in the basements of various buildings and city hall
18 during various canvasses and other election-type
19 heavy-duty, detailed stuff.

20 From that experience and from being firsthand
21 part of a commission that was appointed and set up because
22 of a microscope under which San Francisco elections have
23 been held, most of it from the problems it had in the
24 past, I think I want to first pass on to you that we're
25 very assured, at least I as a Commissioner with that kind

1 of detailed knowledge, of the extent of security and
2 safety and handling of ballots and the extent to which the
3 detail that you've seen in the application applies to
4 accuracy in voting. We've got a very, very stressed but
5 very competent staff in San Francisco and want you to
6 consider that.

7 I as Commissioner am committed to allowing every
8 opportunity of the will of the San Francisco electorate
9 being implemented. I believe that it's the responsibility
10 of the Commission, working with the Board of Supervisors
11 and with the Mayor's office, to get the resources such as
12 auditoriums or whatever's necessary for the Department of
13 Elections to carry out its objective here.

14 The very few -- I independently reviewed the
15 staff report when I got it Friday evening, and I consulted
16 with other folks. My background, by the way, is with the
17 U.S. General Accounting Office. I spent two years looking
18 at elections departments all throughout the country in the
19 United States. That's why I thought I could help San
20 Francisco as a commissioner. And I found these
21 essentially very minor technical points. I want to join
22 the comment of Mr. Hill in the context of the conditional
23 acceptance. I think that's the kind of thing that you
24 should be doing, working with the City of San Francisco on
25 these issues.

1 And I guess my time is expired.

2 ACTING CHAIRPERSON CARREL: I do have a question.

3 You did speak about security. You said that you
4 were confident that security could be assured. As you
5 know, that there were concerns expressed by staff
6 because -- I understand that the report, the analysis said
7 that security would be deferred -- the implementation of
8 security would be deferred for a year. And to me, I don't
9 quite understand why that was in the application. Maybe
10 you can't speak to that --

11 MR. SCHULZ: I can very directly because the very
12 charter amendment that was passed by the Commission also
13 assigned security responsibilities on the handling of the
14 ballots to the Sheriff's Department. And I spent the last
15 elections since the Commission has been involved actually
16 working following through with the Sheriff's Department.

17 We have folks looking at every step of that piece
18 of paper that's considered a ballot from the very
19 beginning. And the security is very much an issue. It's
20 a very expensive issue for San Francisco. But what I
21 understood Mr. Arntz to say was that in fact those
22 processes stay in place over -- it's just not adding to
23 what's already in existence, which now is a heavily
24 subsidized, uniform office of security for the elections.

25 ACTING CHAIRPERSON CARREL: Okay. Well, thank

1 you.

2 I believe I called Richard Shadoian.

3 MR. SHADOIAN: Good afternoon. I'm Richard
4 Shadoian. And I'm also an elections commissioner. I
5 speak for myself and not for the Commission.

6 Staff's report does not indicate that our
7 proposed method will fail to accomplish the major tasks
8 which any voting system is charged, counting the ballots
9 accurately, fairly, and with a high degree of security and
10 transparency. The staff's report should be rejected. The
11 panel should grant conditional certification to the
12 Department of Election's application subject to specific
13 requirements for additional documentation procedures and
14 clarification.

15 There have been many shortcomings of this
16 certification process. The staff apparently never read or
17 ignored an important memo dated May 23rd written by our
18 Director to John Mott-Smith, in which the Director
19 responded to the Elections Division, and which responded
20 to three of the core issues raised in this report. The
21 staff report and recommendation did not get released until
22 after close of business on the last Friday. The staff
23 closed off the public comment period on Friday, July 11th,
24 and had the draft report recommendation written by the
25 following Monday, July 14th.

1 It appears that the public part of this public
2 process was not taken into account.

3 The Secretary of State's goal should be to help
4 applicants succeed in their goal of obtaining
5 certification of a sound method for administrating
6 accurate, secure, and transparent elections, not find ways
7 to trip them up. Indeed, the California Election Law
8 requires that -- requires that when it says, "The division
9 shall be liberally constructed so that the real will of
10 the electors will not be defeated by any informality or
11 failure to comply with all of the provisions of the law."
12 The staff report fails to spell out compelling reasons for
13 denial of this application.

14 I request that the Secretary of State work with
15 the Elections Department to correct the minor omissions in
16 the procedures and documentation. There's nothing in this
17 application that will lead to voters being -- have votes
18 being counted incorrectly or the city charter being
19 violated.

20 Please grant us conditional certification so that
21 we may prepare for our November election. Failure to
22 certify will cause an -- mixup so we've got three
23 elections within a three-month period rather than a two.

24 Thank you.

25 ACTING CHAIRPERSON CARREL: Thank you.

1 Paul -- oh, I'm sorry. Who did I call?

2 Tom Willis.

3 MR. WILLIS: Thank you. My name is Tom Willis,
4 and I represent voters in San Francisco opposed to the
5 hand count.

6 I agree with the report and recommendation from
7 staff. I would just like to talk about a few of the
8 things that we have not discussed yet that also present
9 fundamental problems with approving this hand count
10 procedure.

11 And, again, because of the shortness of time, I'm
12 only going to address some that have not been discussed,
13 three or four of them.

14 The first is that the hand count procedure
15 clearly violates the State law with respect to how you
16 handle hand counts. The hand count law requires two
17 things: First of all, that every observer and every
18 candidate has a clear view of the voting, the tallying,
19 and the calling. And Mr. Arntz spoke to that issue. But
20 it's quite clear that as the physical space that's
21 currently laid out, there will be absolutely no
22 opportunity for anyone to see anything close to that
23 happening. At a minimum right now we are 30 feet away
24 from -- 30 feet away from one of those ballot teams, much
25 less all 50.

1 More importantly, under the Elections Code
2 Provision 15273, you cannot -- when you do a hand count
3 you can't split up the governing board into separate
4 teams. And that makes perfect sense. You want
5 consistency of calling. And here San Francisco is
6 suggesting that we split up a governing board into 50
7 teams. And that will require -- or will cause terrible
8 discretion problems and inconsistent calling of ballots.

9 I believe I have more than -- could I just have a
10 couple more minutes?

11 ACTING CHAIRPERSON CARREL: I'll give you a
12 couple more minutes.

13 MR. WILLIS: Thank you very much.

14 So it violates State law with respect to hand
15 counts.

16 Now, let me just speak briefly to voter
17 education. Again, Mr. Arntz spoke to that briefly. But
18 the Department of Elections long ago said -- the charter
19 requires adequate voter education. It requires that as a
20 matter of law. That's part of the law. The Department of
21 Elections said, "Adequate voter education, in order for us
22 to do this, it will cost \$2.4 million." And they have a
23 very specific program of what voter education -- adequate
24 voter education would incur.

25 The Board of Supervisors said, "Forget about it.

1 We're going to give you a third of that. We're going to
2 give you enough money for doing one mailing" -- one
3 mailing -- "to citywide voters. Now, one mailing between
4 now, when the recall begins, and November is going to get
5 lost in the blizzard of literature that we all know is
6 going to be planted on us between now and November. So I
7 just don't -- I think there's going to be great confusion.

8 Finally, I would just like to add, this issue
9 that there will be error notification with respect to your
10 first choice, but not with respect to your second and
11 third choice creates a fundamental problem about people's
12 votes being counted differently. Let me just put it this
13 way: If I vote for Tom Amiano as my first choice but my
14 ballot is incorrect, I will get notified and I will be
15 able to fix that problem. If I vote for someone else and
16 then Tom Amiano second, I won't know that if -- for that
17 exact same marking I won't know that my Tom Amiano vote
18 doesn't count. And so as a result, because of that error
19 notification for the first choice but not for the second
20 or third, there's a fundamental problem and difference on
21 how votes are going to be counted. People's votes are
22 going to be treated differently.

23 Finally, I would just like to respond to Mr.
24 Hill's suggestion that the Board -- or the panel accept
25 this conditionally. This is the end of July. The

1 Department of Elections has to, unfortunately for them,
2 conduct two elections between now and November. The
3 recall is an unprecedented election. To ask the
4 Department to go on conditional watch and continue to work
5 with the panel for this next two months and work out some
6 of these problems that are fundamental would be too much
7 to ask from this Department. We need clear results, we
8 need a clear decision. And I agree that this hand count
9 procedure should be opposed and should be rejected.

10 Thank you.

11 ACTING CHAIRPERSON CARREL: Mr. Mott-Smith.

12 PANEL MEMBER MOTT-SMITH: I have a question. And
13 it may go to Mr. Willis or it may go to the consultant.
14 I'm not sure whom.

15 But it appears from the materials that we've
16 received that the way that this system is constructed
17 with, as an example, ten candidates and with only three of
18 them listed on the ballot, and you could actually
19 depending upon how candidates 10, 9, 8, 7, 6, 5, 4, et
20 cetera, are -- their votes are extinguished, that you
21 could actually have a different winner in one scenario
22 than in another scenario even though you've got the same
23 candidates and votes. That seems to be a fundamental
24 issue.

25 MR. WILLIS: Absolutely. And I would just like

1 to -- maybe the best way to illustrate that is actually to
2 get back to the issue of how you handle tie votes in this
3 situation.

4 Now, the way you handle tie votes according to
5 the Department is, let's say -- let's just use my family.
6 Tom, Butch -- Tom, John, Susan, Butch. Okay? Tom has 10
7 votes. John has 10 votes. Butch and Susan have 8 votes.
8 Okay?

9 Now, under the Department's procedure -- Butch
10 and Susan both have 8 votes -- instead of doing a flip to
11 see who gets to go forward, you take away both of their
12 first place votes and you redistribute both of their votes
13 up. But Butch or Susan could actually win this election.
14 And you are taking away that opportunity for them to win
15 that election because -- say, Susan is the one -- Susan
16 has 8 votes. Well, maybe all of Butch's votes go to Susan
17 and catapult her above Tom and John.

18 So the way I think that that very neatly captures
19 the way that the Department of Elections is suggesting to
20 handle tie votes really will change the outcome of the
21 election, because Butch and Susan don't have any
22 opportunity to win the election when in fact they could
23 very easily win the election.

24 PANEL MEMBER MOTT-SMITH: And maybe -- I don't
25 know if either of you can comment on this, but I'm looking

1 for either affirmation or rejection of what I just said.
2 Is it possible for -- depending upon the way the votes
3 fall out for candidates below the first, second, and third
4 positions, is it possible that one candidate wins and
5 another scenario another candidate wins?

6 MR. FREEMAN: Absolutely. It's one of the
7 characteristics of this system. Depending on how far you
8 go down those particular ranks, it's possible for the
9 election winner to be changed significantly by the lowest
10 ranked, particularly if you have a lot of candidates and
11 the votes are split very finely across all those
12 candidates.

13 MR. WILLIS: Could I just say one more thing?

14 Just for perspective, in 1999 we had 18
15 candidates running for mayor. So I think it is very
16 likely we're going to have a very large ballot again. If
17 it holds true to form, it will be about 20 people on the
18 ballot for mayor.

19 PANEL MEMBER CARBAUGH: Mr. Chair, just quickly.
20 I just wanted to go back to Mr. Shadoian's comments
21 regarding the Secretary of State's Office working with the
22 County and City of San Francisco. And could you please
23 for the record explain to us to what extent you feel there
24 has been cooperation between this agency and the County
25 Elections Department.

1 VOTER OUTREACH PROGRAMS DIRECTOR MEHLHAFF: The
2 Department has been phenomenal in their response to this
3 office. You know, they're in a tough spot. They're not a
4 voting system vendor. And they've been put in a position
5 to come forward with an application to, you know, make
6 this work. And they're not a voting system vendor. The
7 don't have the -- you know, the years of practice behind
8 them on, you know, what do you do in this case or that
9 case.

10 And so they certainly have put forward a
11 good-faith effort. They've been tremendous. They've, you
12 know, answered our questions, provided us with the
13 documents, talked to -- you know, I talked to them on
14 almost a daily basis throughout this process. And, you
15 know, they've talked to the consultants providing
16 information.

17 In terms of all the documents -- you know, the
18 document that was referenced, we did review that. That
19 was a document in which we needed prior to testing. And
20 that was provided to us several weeks before we tested.
21 And the answers in this document, we read them, we
22 reviewed them. They offered some explanation.

23 However, they did not fulfill the requirements
24 within the Elections Code to our standards. We did test
25 it. And we thought we'll test it. Maybe we're missing

1 something and throughout the testing we can find answers
2 to these questions ourselves to comply with State law.
3 However, that did not occur.

4 PANEL MEMBER CARBAUGH: Is it a fair
5 characterization to suggest that the Secretary of State as
6 an agency has been a stumbling block in this process, or
7 has it been helpful?

8 VOTER OUTREACH PROGRAMS DIRECTOR MEHLHAFF: I
9 believe we've been helpful. You might want to address
10 that question to the vendor and get their opinion. But I
11 think we've worked well together during this process and
12 the communication that have been. And, you know, we've
13 been communicating with them on an ongoing basis.

14 PANEL MEMBER CARBAUGH: Thank you.

15 ACTING CHAIRPERSON CARREL: Thank you.

16 Let me announce the next three speakers: David
17 Lee, Sabrina Saunders, and Pete Martineau.

18 So David Lee.

19 MR. LEE: Commissioners, I'm David Lee, Executive
20 Director of the Chinese American Voters Education
21 Committee in Chinatown, San Francisco.

22 For the last ten years we've worked with -- and
23 I've personally worked with low income immigrant voters in
24 the Chinese community to register them to vote and get
25 them engaged in the political system in San Francisco.

1 At the Committee we are deeply concerned about
2 this instant runoff voting system or ranked choice voting
3 system, the potential for confusion; and, furthermore, the
4 potential for thousands of limited English speakers, which
5 in San Francisco is a large percentage of the population.

6 I don't know if you're aware, but nearly a third
7 of the population of San Francisco in the last census was
8 recorded as Asian American, and of which a large
9 percentage are immigrant. And our primary concern is that
10 given that we have a recall election only few months away
11 and, in addition, an instant runoff, ranked choice voting
12 system, that voters, particularly limited English speaking
13 voters, will be confused. And clearly from listening to
14 some of the discussion today, there is -- that confusion
15 perhaps is warranted.

16 We just went through a number of exercises that
17 had many of us, particularly myself who have worked with
18 ballots for over 10 years, confused. And really I think
19 this system needs to be better researched, better tested,
20 and there needs to be more time to educate the community,
21 particularly limited English speakers, about the system
22 before it's implemented.

23 Thank you.

24 ACTING CHAIRPERSON CARREL: Thank you.

25 Sabrina Saunders.

1 MS. SAUNDERS: Good afternoon. My name is
2 Sabrina Saunders. And I'm here representing the
3 California Voting Rights Foundation. And I want to thank
4 the panel for the thorough job that you've done this
5 afternoon in researching and looking at a very complex
6 issue.

7 I'd also like to present over 250 letters and
8 endorsement cards to repeal or reject this current system
9 as it is being pushed forward. The signatures are from
10 leaders in the African American community, the Asian
11 community, the Latino community, and many other
12 communities.

13 I myself have worked in the African American
14 community for over ten years, doing voter outreach and
15 education. My emphasis has been in the faith community.

16 But I know based on what I've heard today that
17 this would totally disenfranchise the African American
18 community. People would not vote. People would not
19 participate. It wouldn't be confusion. It would be
20 nonparticipation in my community.

21 And I'm concerned that with that kind of loss of
22 the voice of the African American community, we wouldn't
23 have fair elections.

24 Thank you.

25 ACTING CHAIRPERSON CARREL: Thank you.

1 The next three speakers, Pete Martineau, Paula
2 Lee, and Matt Spencer.

3 Actually, I have Matt -- I have two people from
4 the San Francisco Green Party, Don Eichelberger and Matt
5 Spencer. So I would ask that either one person speak on
6 behalf of the party or that one speaker -- on behalf of
7 themselves or only one speaker total.

8 Mr. Martineau.

9 Sorry.

10 MR. MARTINEAU: I'm Pete Martineau. I'm here for
11 Californians for Electoral Reform.

12 To paraphrase what's already been said about the
13 law, the law liberally is construed so that the real will
14 of the electors will not be defeated by any informality or
15 failure to comply with all the provisions of the law. So,
16 any liberal construing so as to fulfill the real will of
17 the electors does not require compliance with all
18 provisions of the law. It requires that the Secretary of
19 State should apply in as helpful a manner as possible the
20 intent and spirit of the Election Code to a new solution,
21 situation -- ranked choice voting -- and figure out how to
22 ensure that the equipment works and counts ballots
23 accurately and securely, and it produces full results and
24 audits.

25 Nowhere does the staff report claim that the

1 procedures devised by San Francisco will not count ballots
2 accurately or securely. The lesser issues and concerns
3 raised by the staff report were resolved by the Arntz memo
4 in May.

5 We agree that there are minor omissions in the
6 procedures and documentation requirements put forth by the
7 San Francisco application. But those are easily
8 irremediable. There's nothing in the application or the
9 system that will lead to votes being counted incorrectly
10 or the city charter being violated.

11 Therefore, Californians for Electrical Reform
12 recommend the Voting Systems Panel and Secretary of State
13 should give conditional certification to the Department's
14 application, subject to the staff report's specific
15 requirements for additional documentation, clarification,
16 and procedures.

17 I think we should not sell our minority
18 population short here. I think they will -- the African
19 American community has always been a tremendous community
20 to turn out and vote. And their turnout will not be
21 affected in our view by this new system.

22 The Asian community will also be very excellent
23 on turnout and understand the system well.

24 Thank you.

25 ACTING CHAIRPERSON CARREL: Thank you.

1 Paula Lee.

2 MS. LEE: Paula Lee, League of Women Voters of
3 California.

4 Panel members, the League of Women Voters of
5 California requests your certification of the San
6 Francisco Department of Elections application to employ a
7 partial manual tally of instant runoff voting in the
8 November 2003 elections, if necessary.

9 Proposition A was passed more than 16 months ago.
10 And every effort should be made to ensure that IRV is
11 implemented according to the schedule prescribed by the
12 measure without further delay.

13 Instant runoff voting will ensure that local
14 officeholders are elected by a majority of those voting in
15 the general election, not a small subset of voters who
16 turn out for a runoff election.

17 Last one, by the way, was a 15 percent turnout.

18 IRV will ensure that local officeholders are
19 elected by a majority of those voting in the general
20 election. By eliminating the need for a runoff election,
21 IRV provides significant savings and election costs for
22 both government and candidates.

23 Instant runoff voting also grants voters the
24 freedom to vote for the candidate of their choice,
25 confident that their vote will not inadvertently throw the

1 election to a candidate that they do not wish to see
2 elected.

3 The League of Women Voters of California believe
4 that the procedures before you meet your certification
5 criteria while preserving the will of San Francisco
6 voters, and we urge your certification.

7 ACTING CHAIRPERSON CARREL: Thank you.

8 Don Eichelberger and Matt Spencer.

9 And I also have Susan Hall and Richard Hansen
10 both representing the Richmond District Democratic Club.
11 So if you can clarify who's speaking on behalf of that
12 organization as well.

13 MR. SPENCER: Good afternoon, panel. My name's
14 Matt Spencer. And I'm happy to speak as an individual.
15 Don Eichelberger is here, but I know he had to repark his
16 car. So perhaps he can be --

17 ACTING CHAIRPERSON CARREL: I'll move to him
18 later on. That's fine.

19 MR. SPENCER: -- able to speak later on.

20 I'm a resident of San Francisco and a registered
21 voter there. And I came here tonight because I wanted
22 to -- I voted for Proposition A a little over a year ago
23 for instant runoff voting, and I wanted to make sure that
24 we get instant runoff voting instituted in San Francisco.
25 And I realize that tonight you're not hear to worry about

1 what system perhaps is preferred or better, but merely to
2 see that all systems that are used in San Francisco and
3 the State of California operate in accordance with the
4 law. And I think that's obviously an admirable goal of
5 ours.

6 But we understand that elections aren't perfect,
7 and we could scrutinize any kind of electoral system and
8 probably come up with all sorts of, you know, interesting
9 things that we hadn't noticed or, you know, possibilities
10 for things to go wrong. And recent history has shown
11 that, you know.

12 But what I do think is -- one consideration to
13 make here is that -- other speakers have already mentioned
14 that there's a time line and there's upcoming elections.
15 And a delay on certification here would have a larger
16 impact on elections in San Francisco, and it may -- the
17 goal of many of us who support instant runoff voting is to
18 see that it was implemented to see that it was implemented
19 for this upcoming November election. And I would like to
20 see that that be considered and maybe be given weight
21 compared to perhaps some of the details that are still
22 being worked out here.

23 And I appreciate your attention to these.

24 Thank you.

25 ACTING CHAIRPERSON CARREL: Thank you.

1 So you were Mr. Spencer?

2 MR. SPENCER: Yes.

3 ACTING CHAIRPERSON CARREL: Okay. So I'll move
4 Don Eichelberger to later on.

5 So let's move on to Susan Hall and Richard Hansen
6 and Jonee Levy.

7 Actually I have two people for the District 3
8 Democratic Club. And Arthur Chang. So I want you to
9 clarify who's representing the organization.

10 Susan Hall.

11 MS. HALL: Hi. I'm Susan Hall, and I'm Secretary
12 of the Richmond District Democratic Club in San Francisco.
13 And I'm here to urge you to certify the application for a
14 manual hand count as submitted by our Department of
15 Elections.

16 I've read your staff's July 21st review and
17 analysis. And I would urge you to give your full
18 attention to the rebuttal submitted by Steve Hill and the
19 Center for Voting and Democracy. And I think it addresses
20 most, if not all, of the objections that your staff had
21 very admirably, particularly with regard to the technical
22 items.

23 I want to address a nontechnical item. And that
24 is the ballot design. Your staff seems to think that this
25 design will confuse the voters. But as the CDD rebuttal

1 points out, our voters are quite used to having several
2 different designs and sets of instructions on a single
3 ballot. Our ballots will jump from instructions to vote
4 for one, to vote for a certain number, to vote yes or no,
5 and it's all combined in the ballot. And we don't seem to
6 have very much confusion over that in our elections. I
7 can't believe that voters won't be able to distinguish
8 between -- or won't be able to follow the instructions,
9 vote your first choice, vote your second, and vote your
10 third.

11 I would also like to say that with regard to
12 voter education, that the RDDC send slate cards to about
13 20,000 people in the Richmond district. And we will be
14 urging them to rank their votes. I think there are others
15 doing that throughout the city, and you should add that to
16 the voter education being done.

17 Thank you.

18 ACTING CHAIRPERSON CARREL: Thank you very much.

19 Richard Hansen.

20 MR. HANSEN: I'll give my time to Steve Hill.

21 ACTING CHAIRPERSON CARREL: That's not how we're
22 handling things here. Either you get the two minutes or
23 no one takes -- or we move on to the next speaker.

24 We gave Mr. Hill seven and a half minutes
25 already.

1 MR. HANSEN: Well, in that case, I'm Richard
2 Hansen, who's also a member of the Richmond District
3 Democratic Club. I completely concur with all the points
4 that Susan Hall has made. And I think it's imperative
5 that you give us a good shot on this, and that we deserve
6 conditional certification for this new procedure. It may
7 not be perfect. But as a former scientist I know that
8 absolute facts are never absolute facts, no matter what
9 the Secretary of Defense Rumsfeld may tell you. I happen
10 to follow the iterative process, and this is what the
11 people in San Francisco want. They deserve it. And many
12 of us have spent all day coming up to Sacramento to tell
13 you that.

14 Thank you.

15 ACTING CHAIRPERSON CARREL: All right. Jonee
16 Levy, Arthur Chang, and Myrna Lim.

17 Before you speak, I just want to comment about
18 the public comment. And I've got to say that we have
19 gotten a lot of e-mails and a lot of letters over the last
20 several months. And trust us, we have read them. So
21 don't think that they have gone for not. So we
22 appreciate -- we have appreciated that.

23 MS. LEVY: Having said that -- well, I'm Jonee
24 Levy, and I'm the President of the District 3 Democratic
25 Club.

1 And having heard that from you, I just want to
2 thank each and every one who I know have put in a lot of
3 time, a lot of effort. And there's not much pay back
4 except to hear from the likes of us about this, but we
5 really -- or I certainly appreciate this.

6 At any rate, District 3 Democratic Club does a
7 lot of education and outreach. We register voters, and
8 our plan this season is during registration to talk about
9 IRV. We also send out slate cards. We have community
10 meetings. We will work with the League of Women Voters.
11 We will do a lot for outreach.

12 And we certainly hope to work with Mr. Arntz, who
13 is working very, very, very hard on this. His department
14 has just done incredible work on this. And I hope that
15 you will work with them and give a conditional
16 confirmation. They -- for them to put forward three, not
17 two, but three elections -- October, November, and
18 December -- is absolutely more than I think we should
19 expect from them.

20 I would also like to finally say, Mr. -- either
21 Mr. Carrel or the gentleman sitting at the table in the
22 navy blue jacket whose name I never quite understood --
23 Mr. Freeman?

24 MR. FREEMAN: Freeman.

25 MS. LEVY: Freeman, yes.

1 I believe one of the two of you talked about
2 normal elections and this is not like normal elections are
3 run. Well, my understanding is that Santa Clara County is
4 preparing ranked choice voting, IRV voting as a test in
5 November; San Diego is preparing for ranked choice voting;
6 and a number of other counties and cities in the state are
7 preparing for ranked choice voting. And I think in fact
8 it may soon become the norm, or maybe it is the norm and
9 we just haven't gotten to it.

10 Thank you.

11 ACTING CHAIRPERSON CARREL: Thank you.

12 I don't know that I referred to it that way. But
13 I don't know that -- I don't -- as I said at the
14 beginning, our determination here is not on instant runoff
15 voting. Our determination is on this proposal to
16 implement instant runoff voting. And I don't think -- for
17 me personally, I don't have a problem with seeing the
18 people of San Francisco move to an instant runoff voting
19 system. I just -- here, representing this panel and on
20 behalf of this panel, our role is to make sure that the
21 system that's been presented will actually achieve what
22 that goal is.

23 MS. LEVY: Conditional confirmation please.

24 ACTING CHAIRPERSON CARREL: Well, I hear what
25 you're asking.

1 Thank you.

2 Mr. Chang.

3 MR. CHANG: My name is Arthur Chang. I'm just a
4 member of the District Democratic Club and not to much
5 more. She calls me and says, "Now you're coming down and
6 register voters."

7 But the whole voting process is important to me
8 as a first generation immigrant Chinese. And this is more
9 access, an easier kind of voting. And I'd like to ask
10 you -- all of you -- I don't know how many have come
11 across a language barrier. But looking among your faces,
12 I think perhaps one of you have a language barrier to get
13 access to voting. So it's important to us.

14 So is there anything in statute which just says
15 this has to be a perfect system? Because when I ask her
16 questions like, "Have you got the table set and the
17 chair's relationship?", this is -- you are in the process
18 of certifying. And I hear there's a possibility to
19 conditionally certify. That is important, to get this
20 system -- it was a respectable vote that voted for this
21 system. And if that's what you have to vet, then please
22 do.

23 However, as one gentleman voted, you are supposed
24 to facilitate greater access to the democratic process in
25 our voting system. So I'm surprised that you, Chairman,

1 and Mr. Lee -- you haven't gone to many Chinese
2 restaurants because it says, "Won Kung Bang, Won Kung Pao
3 --

4 (Laughter.)

5 (Applause.)

6 MR. CHANG: We have -- to install democracy in
7 Iraq. We need a democracy -- a greater democracy.
8 Perhaps the President should install a more perfect
9 democracy in America, where every person has a right to
10 vote and with easy access and the opportunity to register
11 his voice.

12 Thank you. But I wish you'd give it a
13 conditional consideration.

14 ACTING CHAIRPERSON CARREL: Thank you.

15 The next three, Myna Lim, Nia Crowder, and
16 Helynna Brooke.

17 MS. LIM: Good afternoon, Commissioners. My name
18 is Myrna Lim and I'm from the Filipino American Voters
19 Education Council.

20 We strongly urge you to deny the hand count for
21 the very basic reason of a lack of voters' education. We,
22 the Filipino American Voters Education Council, have
23 worked very hard in the last few years to empower
24 ourselves, to pick ourselves up from our bootstraps, that
25 we'd become an empowered community. And being that

1 through the electoral process.

2 We formed the Filipino American Voters Education
3 Council a couple of years ago so that we can mete out the
4 challenges, we can overcome the challenges that our
5 community suffers. We would like to register our voters,
6 we would like to get out to vote, we would like to have an
7 educated voting population, and we would like to overcome
8 voters' apathy. All of these are designed so that we can
9 empower ourselves, so that we can make sure that our votes
10 are heard and that we can make sure that our voices count.

11 Currently in San Francisco we have 19,000
12 registered voters, and we have 25,000 eligible voters. I
13 mean those are people who can vote, but are not registered
14 to vote. We've been going to our community organizations
15 in the last couple of weeks. And they are not even aware
16 of this hand count voting, nor the IRV.

17 There's two ways to disenfranchise us completely
18 in the electoral process. One is to completely ban us
19 from voting and the other one is to completely confuse us
20 and to disallow us from understanding how this RCV works.
21 The bottom line's the same. The result's the same.
22 Through confusion, through the lack of education, it
23 violates our hard-fought civil rights, our hard-fought
24 concepts and our right to have our voices heard and to
25 have our votes counted.

1 We would like to request that the proponents of
2 this particular IRV get over this ingenuousness of trying
3 to win an election. And if they really want to win an
4 election, they have to believe in even play, that
5 everybody should have an equal information on how the
6 electoral process works.

7 Thank you.

8 ACTING CHAIRPERSON CARREL: Thank you.

9 Nia Crowder.

10 MS. CROWDER: Thank you.

11 Good afternoon. My name is Nia Crowder, and I'm
12 the Vice President of the African American Democratic Club
13 and also am a commissioner. I sit on the Commission on
14 the Environment.

15 And I'm here to plead that implementation is not
16 yet ready. I had several concerns. I had a more prepared
17 statement. But then after the staff report, I had a few
18 questions of my own in addition to the concerns I already
19 had.

20 One of them is that IRV actually weakens the
21 individual voter. It seems almost to penalize a voter
22 that is really interested in fully supporting one
23 candidate.

24 The practice simulation itself the team's already
25 conducted only included two precincts. I can certainly

1 guarantee you more than two precincts will be
2 simultaneously counting, will be closer than six feet.
3 And that's even if the auditorium were venues like at the
4 Bill Graham Auditorium or the Mosconi Center.

5 Gosh, there's so many -- another one is,
6 basically what we're not talking about is just a different
7 voting method. We just recently went from our old punch
8 card method to the Eagle method where we draw the line.
9 That was fine. That was one method.

10 What we're talking about now is a whole different
11 voting system, where basically now you need to educate the
12 voters on the new statistical value of their vote, as
13 opposed to just looking at the qualifications of each
14 candidate. Hopefully they will also get the three hours
15 of training the poll workers will need because they're
16 going to need at least that to have this process explained
17 to them.

18 Certainly there are noise concerns. Any
19 reporting thing -- I'm not even of so much going to go up
20 against the implementation of this as far as whether IRV
21 or RCV -- we haven't even chosen an acronym as of yet --
22 should even be used. But at this point the public
23 outreach -- whatever the Finance Committee will give to
24 the whole outreach program, a drop in the bucket, is not
25 going to be enough to fill the void of education the

1 voters are going to need. And that's really the bottom
2 line. If we get started next week on a plan, we really
3 have to educate the whole voters. We have an October 7th
4 election in addition to all of that, and it's really not
5 fair to the voters who do take the time to go out to the
6 polls.

7 Thank you very much.

8 ACTING CHAIRPERSON CARREL: Thank you.

9 Helynna Brooke. And after Ms. Brooke I believe
10 it says August Longo, Sally Buchmann, and Howard Wallace.

11 MS. BROOKE: Hi. My name is Helynna Brooke, and
12 I'm the President of the National Women's Political
13 Caucus.

14 And I had grave concerns about how San Francisco
15 would be able to actually implement this before coming to
16 this hearing today. And upon hearing the staff report,
17 which a lot of time and effort and expertise went into, I
18 even have more concerns. As you are well aware, San
19 Francisco does not have a history of being able to run
20 easy, smooth elections without this complication. And we
21 have an inexperienced director and a staff with rather low
22 morale.

23 The last election we were not even able to get
24 out the ballots to each precinct. So I have real concerns
25 as to how would we successfully count these.

1 And all the -- there have been several speakers
2 who've said they're just little details. A lot of the
3 details that I heard that staff mentioned are very
4 critical, important details that ultimately, if they're
5 not attended to, will result in each voter not having
6 their vote counted. So I urge you to have this system
7 study more, to have more tests run before you begin to
8 implement the process.

9 Thank you.

10 ACTING CHAIRPERSON CARREL: Thank you.

11 August Longo.

12 MR. LONGO: Do you have a microphone phone
13 please.

14 Members of the panel, my name is August Longo.
15 I'm the president of the FDR Democratic Club, which
16 supports the senior and disabled community of San
17 Francisco.

18 I'm concerned with we're just not ready for prime
19 time with this plan in San Francisco. Our Elections
20 Department has been through a lot of turmoil. The voters
21 passed this measure 16 months ago. It seems to me in 16
22 months we knew we were going to have this problem. It was
23 sold to the voters it would be all electronic. And that
24 was the expectation. Now, this is the backup plan because
25 the electronics will not work.

1 But it seems to me if they cannot assure every
2 voter that their vote will be properly counted and be
3 secure, that you should reject it. And I ask you to do
4 that.

5 ACTING CHAIRPERSON CARREL: Thank you.

6 Sally Buchmann.

7 MS. BUCHMANN: Good afternoon. I'm Sally
8 Buchmann. I'm a registered voter from San Francisco and
9 also Co-Chair of Pride at Work. We are an AFL/CIO
10 constituency group and we represent lesbian, gay,
11 bisexual, and transgender labor.

12 This year we started our voter registration
13 project in June. And we're also informing voters about
14 what it means to follow instant runoff voting. And that
15 is what our project is going to be for the next year and a
16 half, to register voters and also to -- for this election
17 to explain what instant runoff voting is about.

18 So we're going to be part of the educational arm
19 in San Francisco to help with this.

20 We're being funded by a labor organization.
21 We're also going to be working with the Harvey Milk
22 Democratic Club and the Alice B. Toklas Democratic Club to
23 instruct voters about instant runoff voting.

24 From all that I've heard about, I think that is
25 going to be a good plan. You've been waiting a long time

1 for this. We want to see this be conditionally approved
2 and that some of these minor details be worked out. And
3 I'm sure that our Elections Department will be up to this.
4 Everybody in San Francisco wants this to go forward --
5 most everybody. I know there's some detractors. And I
6 wish that our expert could have been allowed more time to
7 speak.

8 So, again, I urge you -- I urge the panel to vote
9 for this because this is the will of the voters of San
10 Francisco and we'd like to go forward with this and start
11 instructing our constituents about it.

12 I went to a party recently in the last six months
13 and I met a young lady from Australia, which is one of the
14 countries where they've had instant runoff voting for
15 many, many decades. And she said she learned about it in
16 high school, and it didn't take that long to understand
17 how to vote 1, 2, 3.

18 So maybe some of the people here are worried that
19 some of their constituents won't understand all of the
20 different political applications of how the instant runoff
21 voting will be affecting a voice for minority populations
22 to get their voice through during this voting process.
23 But I think everybody knows how to vote 1, 2, 3.

24 So thanks again for your time and continue your
25 good work. And please vote for the conditional

1 endorsement of this process.

2 ACTING CHAIRPERSON CARREL: Thank you.

3 Howard Wallace, Christopher Bowman, and William
4 Powers.

5 MR. WALLACE: Good afternoon.

6 My name's Howard Wallace. I'm on the Board of
7 the San Francisco Labor Council, and I'm here to represent
8 the officers of the Council today.

9 Our council has had some disagreements around the
10 mayor's race and has not consolidated a unanimous vote
11 behind any candidate. But we've been nearly unanimous
12 from the beginning to the present on instant runoff, in
13 supporting it.

14 Our Labor Council voted very recently to reaffirm
15 our support and to join the Center for Voting and
16 Democracy to take legal action, if necessary, to see that
17 the will of the voters is not thwarted. The fact that it
18 could be thwarted is very disturbing because, as I see
19 even here today, the same forces that opposed it prior to
20 the election are the same forces that are opposing it
21 today and trying to get -- to scuttle it. And they've
22 done it with a high priced legal campaign as well as a
23 high priced public relations campaign to mystify the
24 issues as much as possible, makes it seem as strange as
25 possible; when the information is readily at hand for

1 solving such problems as a tie and other problems that
2 might arise and pursuit of sharing it out.

3 On the minority question: Minority communities
4 voted 55 to 65 percent in favor of Measure A. And they
5 knew what they were doing. They wanted to not have a
6 second election, not have to come back and vote again.

7 And you should have in your packets, if not
8 today, you've received them I know, letters from Chinese
9 for Affirmative Action, Lawyers Committee for Civil
10 Rights, Common Cause, League of Women Voters, Congress of
11 California Seniors, Senior Action Network -- I'm on the
12 Board of that also -- San Francisco Labor Council, Sierra
13 Club, League of Conservation Voters, Democratic Party of
14 San Francisco, and the club that I'm vice president of,
15 the Harvey Milk Club, and a lot of democratic clubs.

16 The fact is, that mystification shouldn't find
17 it's way in staff report. I think some of it has. And
18 part of the problem is we have not been seeking out expert
19 testimony when it's quite available both through the
20 Center and its extremely competent staff, Steve Hill and
21 associates, and also by picking up the telephone and
22 calling one of the many jurisdictions from London to
23 Anarbor to New York City that knows fully about the
24 answers about this. You don't have to reinvent the wheel.

25 And I urge you to serve the will of the voters,

1 not to thwart the will of the voters, and see to it that
2 this is implemented.

3 Thank you.

4 ACTING CHAIRPERSON CARREL: Thank you.

5 Mr. Christopher Bowman.

6 MR. BOWMAN: Mr. Chairman, panelists on the
7 panel, I'm Chris Bowman. I served on the Citizens
8 Advisory Committee on Elections, which oversaw the
9 Department of Elections three and a half years prior to
10 the Elections Commission being created in the spring of
11 last year.

12 My experience in all those years is that we had a
13 meltdown virtually every election. Every election the
14 Secretary of State, from the time that Bill Jones became
15 Secretary of State until the last election, has had to
16 come down. There was even times of talking about
17 receivership of the Department. This Department to be
18 faced with the unprecedented situation of a recall
19 election October 7th and then a November election using
20 this new system, and I think there's a very good
21 possibility that we will melt down.

22 One of the problems when we go the initiative
23 route is that people don't really take into account what
24 the complications are for the departments and
25 implementation. We have the issue of the 20 -- the 15 day

1 registration where almost all the departments of elections
2 opposed that, but nevertheless they all went forward. We
3 had a situation where we had the semi-ajar open primary,
4 where supposedly some parties said you could have an open
5 primary, others did not. I can tell you -- I can attest
6 that central committee candidates, that you had
7 independents voting in both the Democratic and the
8 Republican primaries, against laws and regulations. But
9 it just happens because the poll workers themselves were
10 confused.

11 We've only had mandatory training requirements
12 for all poll workers in one election in the last ten
13 years. And unless there's mandatory training for all the
14 poll workers this time around, I think we're going to have
15 a major problem.

16 Now, let's talk about equal protection. And I
17 would ask for also equal protection given. Steve Hill had
18 seven minutes and the attorney on the other side had four
19 minutes to be able to speak, with one more minutes --

20 ACTING CHAIRPERSON CARREL: He had seven as well.

21 MR. BOWMAN: Well, I won't ask for that.

22 But I will say, you asked the question very well:
23 What happens to the second and third choices if the
24 computer doesn't balance it out? I would argue what
25 happens for the 30 percent of the voters who vote absentee

1 that don't even have the privilege of a machine to balance
2 out their ballot to indicate whether or not their second
3 or third choices were correct, whether they had overvotes
4 or undervotes. There's an equal protection issue here.
5 And I think you need to address that.

6 ACTING CHAIRPERSON CARREL: Thank you.

7 William Powers, Derek Cressman, Tony Brasunas.

8 MR. POWERS: Thank you.

9 Good afternoon. Bill Powers on behalf of the
10 Congress of California Seniors.

11 We supported the initial vote on the ranked
12 choice voting. We want to associate ourselves with recent
13 comments of Steve Hill. We believe he's helped to clarify
14 a number of the issues that were raised by staff and by
15 members of the Commission.

16 I think you have to factor in the failure to
17 approve this will result in the cost for another runoff
18 election, because it's highly unlikely that a mayor will
19 be elected the first time around. And that's going to be
20 a huge cost and will result in a lower turnout. That's
21 been historic in most runoff elections.

22 So we would strongly urge you to factor that into
23 your decision. We support the recommendation that you
24 support a conditional approval of San Francisco's request.

25 Thank you very much.

1 ACTING CHAIRPERSON CARREL: Thank you.

2 Derek Cressman.

3 MR. CRESSMAN: Hi. I represent the California
4 Public Interest Research Group, or CalPIRG.

5 And I'd say, first of all, I'm sympathetic to the
6 plight of this panel. I myself served as an election
7 observer in northern Somalia about two years ago and know
8 that these are difficult issues to face. The conditions
9 there were far from ideal. You know, there were no
10 Chinese Americans or African Americans. Hundreds of
11 Africans. No immigrants, but a lot of refugees. And 90
12 percent of them literally illiterate. But they moved
13 forward doing the best that they could under those
14 difficult circumstances.

15 And they had an election and it worked. And the
16 lesson for me was if there's a will, there's a way. And I
17 think we need to apply the same lesson here. There are a
18 lot of things that are not ideal about this proposal, from
19 my point of view. But it seems to me that we can go
20 forward with this election under the procedures that are
21 put forward, and that actually a lot of the concerns that
22 had been raised are not so much about these procedures but
23 about instant runoff voting in the first place; and any
24 set of procedures that the city had come up with would be
25 meeting some of these complaints.

1 The bit about recounts, it seems pretty clear
2 from Steve Hill's testimony, you can go back and you can
3 do the manual recount in one percent of the districts and
4 make sure that the machines are reading those correctly.
5 Now, that's not particularly meaningful until you know the
6 results of the citywide election, and you need the
7 algorithm to do that. It'd be like doing a recount of the
8 November runoff before you even know what candidates are
9 going to make it to the runoff. We need to know the
10 results of the first round before it's meaningful.

11 So you can still meet the letter of the law, you
12 can do the manual recount, you can make sure your
13 equipment works. But it's not particularly meaningful
14 until you know the results of the first election. So,
15 again, you can meet the letter of the law and do the
16 precinct-by-precinct recounts, and that would be fine, but
17 the current law can't even contemplate whether or not you
18 need to test the algorithm because we don't even have
19 algorithms with just the regular election.

20 So it seems to me that the city has done an
21 admirable job in dealing with adversity, dealing with all
22 kinds of things that they have coming up with recount
23 election, and we should approve this conditionally and
24 move forward and try to improve in the future.

25 ACTING CHAIRPERSON CARREL: Thank you.

1 Tony Brasunas, Mary Jung, David Heller.

2 MR. BRASUNAS: Good afternoon.

3 My name is Tony Brasunas. I'm a citizen of San
4 Francisco. And I just wanted to give a little bit of
5 perspective on some of us that have worked very hard over
6 a long period of time to get ranked choice voting to be a
7 reality in San Francisco.

8 Going back to 2000, many of us watched, to our
9 dismay, as George Bush was elected when clearly more
10 people preferred someone else. And clearly with Al Gore
11 getting half a million more votes and then Ralph Nader
12 getting three million votes, and yet still we watched as
13 George Bush managed to ascend to the White House.

14 So a number of us got together and thought about
15 how -- or looked about different ways where we could
16 actually have a democracy that reflected the will of the
17 voters. And we hit on a system called ranked choice
18 voting. And we looked at it and thought, "Well, is this
19 too complicated for people to handle? Is this too
20 complicated a system?" And we looked at it. And it's
21 like, well, no, you just indicate your choices, 1, 2, 3.
22 And anybody can do it. I mean it's like: "Do you want
23 chocolate, vanilla, or strawberry?" "I want chocolate."
24 "Well, this store may not have chocolate. What's your
25 second choice?" You know, a five-year old could probably

1 do it.

2 So we figured that this would work. And then we
3 put a lot of work into it. Steven Hill helped a lot. A
4 lot of people in San Francisco worked very hard. We got
5 the proposition on the ballot. The election came around
6 and lo and behold, it passed resoundingly in all
7 communities. Asian Americans voted 55 percent for it.
8 Latino Americans voted 62 percent for it. African
9 Americans voted 65 percent for it.

10 People knew what this was about. This was going
11 to end the divide-and-conquer politics where you're not
12 Gore and Nader dividing and Bush winning. This allows
13 communities to get together and to pool their resources,
14 and coalition politics can work.

15 So I urge you today to go the final step. We've
16 done a lot of work. It feels like now you guys have the
17 honorable position of being able to dot the final "i" and
18 cross the final "t" and make this reality for San
19 Francisco. So I really urge you guys to give the
20 conditional certification to the system and let us go
21 forward with the will that we have clearly expressed at
22 the ballot box. All communities of San Francisco have
23 expressed this. And this is the time. We can go with
24 voter registration next week if you guys certify us.

25 So thank you very much. And I urge you to

1 certify the vote.

2 ACTING CHAIRPERSON CARREL: Thank you.

3 Mary Jung, David Heller, Charles Kalish.

4 MS. JUNG: Hello.

5 My name is Mary Jung. I'm a resident of San
6 Francisco. I'm the President of the Sunset Community
7 Democratic Club.

8 I want to commend the staff report. As a San
9 Francisco voter I'd just like to say that we are not in a
10 rush to implement this if we can't do it right the first
11 time. I know San Francisco voters voted IRV. I
12 originally was not a proponent of this, but I am a true
13 believer in the will of the voters. And I really have
14 done as much research as I possibly can. And for me
15 what's really important is that the system works, it
16 doesn't disenfranchise minority voters and low income
17 voters.

18 Now, I lived in District 7 in San Francisco,
19 which had a hotly contested race for supervisor a couple
20 of years ago. And the front runner did not win, and she
21 lost by about three dozen votes. And what was really
22 instrumental -- or informative to me about that race was
23 how she lost. There were hundreds of ballots that were
24 thrown out basically because people didn't understand how
25 they were supposed to be voting, in absentee voting or at

1 the polls. There were a lot of mismarked ballots. There
2 were people who signed their ballots wanting to be sure --
3 the people were sure that they voted for her. And those
4 ended getting thrown out because that was considered
5 mismarked. People would put two or three ballots in one
6 envelope to make sure -- to save on postage, and those
7 were all thrown out because of that.

8 And so everyone keeps saying, oh, it's as easy as
9 1, 2, 3, but really -- and it's not like -- I mean I don't
10 any Chinese person that votes -- who orders from column A,
11 B, and C. I'm from the midwest and it looks like that was
12 something that was for everybody else. The Chinese people
13 did not order that way. But, anyway, that's an aside.

14 But it's only implementation. I think, yeah,
15 maybe it is as easy as 1, 2, 3. But look at the ballot.
16 The ballot itself is very complicated. I've looked at
17 several samples, including the one in the newspaper. And
18 I even went so far as to show my relatives who live in the
19 Richmond district to see what they thought about it. And
20 they thought it was confusing too.

21 So, anyway, you know, San Francisco's had a hard
22 time with running clean elections over the last few years.
23 And this process appears confusing. And I don't believe
24 it -- forgoes the will of the voters. It is not in
25 substance what we voted for. It's very expensive. We

1 were told we'd be saving money. This hand count is
2 subject to subjective interpretation much like Florida. I
3 mean -- in Florida at the same time. We were doing hand
4 counts in District 7.

5 Anyway, so I urge you to delay IRV to the
6 November election until we are all assured that all voters
7 concerned that their votes will be counted and that we're
8 trained properly.

9 Thank you.

10 ACTING CHAIRPERSON CARREL: Thank you.

11 David Heller, Charles Kalish, Vivian De Leon Bias
12 or -- I hope I got that right.

13 MR. HELLER: Good afternoon.

14 I'd like to speak specifically to the one-percent
15 recount.

16 The purpose of the one-percent recount is to
17 review the data collected. For example, if we had an
18 algorithm $A + B = C$, an optical scanner -- and A
19 was 2, B was 3, the purpose of the recount -- the 1
20 percent recount is not to prove that C is 5. It's to
21 prove that A is A -- A is 2 and B is 3.

22 So running this thing through a mini-algorithm is
23 totally -- is a total red herring.

24 Secondly, if you go to a race track, the
25 diversity of people at a race track is enormous. You

1 know, there's just -- there's black people, there's white
2 people, there's Asian, there's Latinos. And just
3 everybody knows how to vote a trifecta.

4 So to say that, you know, this is
5 disenfranchising for communities is another red herring,
6 because I personally don't understand how when the voter
7 turnout takes a -- especially a minority turnout in a
8 December runoff takes a tailspin exactly how that does not
9 disenfranchise minority voters.

10 And, thirdly, I appreciate your attention to
11 detail and making sure all the i's are dotted and t's are
12 crossed. But I really have to take a little suspicion
13 that there's not some political reasoning behind your
14 apparent opposition to instant runoff voting when, you
15 know, you put up a reason -- one of the reasons you put up
16 for trying to stop it is that the Florida county might
17 take place is concrete.

18 Anyway, thank you.

19 ACTING CHAIRPERSON CARREL: That wasn't the
20 reason that I listed as potential crime, but --

21 Charles Kalish, Vivian --

22 MR. KALISH: Yeah, following -- my name is
23 Charles Kalish. I'm a citizen of San Francisco.

24 Following up on the political aspect of this
25 because I really think that's what's going on here, and

1 that's my main concern about the eight of you on the
2 Board. When one person asks when confronted with the
3 question, "Is it a possibility that the Secretary of State
4 is not doing their job helping the city?", that that
5 member of your board asks the Secretary of State's Office,
6 "Are you doing a good job?", why not ask O. J. if he did
7 or didn't do it. I mean ask our Department of Elections
8 whether they're doing a good job.

9 Kevin Shelley and our own Dennis Herrera, City
10 Attorney, came out in support of IRV originally.

11 Suddenly it became very difficult for the
12 Secretary of State to do the testing. It just didn't get
13 started. In the end, he hung things up on a mechanical
14 part, which had to do with memory. He wouldn't start the
15 testing on the software, waiting for the hardware. When
16 asked was there any relationship between the two, "No,
17 there wasn't." Yet he had the right to do that and he did
18 it.

19 Our concern is that the Secretary of State and
20 our city attorney had been gotten to by the Willie Browns,
21 by the Gavin Newsoms, by the Dianne Feinsteins, by the
22 powers that be in our city. I'm asking you to do your
23 duty. Your duty is to interpret liberally the law in
24 order to support the will of the voters. "Will these
25 things in this report prevent us from carrying out the

1 will of the public?" I submit to you that their -- the
2 things in their report will not do that.

3 And, furthermore, I'm real concerned that none of
4 you have asked our expert for any information, and yet
5 this gentleman who represents this well known bogus
6 organization has asked for more information.

7 Give us a break.

8 ACTING CHAIRPERSON CARREL: Let me just comment
9 regarding you're being concerned that Mr. Hill did not
10 have enough time. We have had calls and letters and
11 reports from Mr. Hill and he has talked to myself just two
12 days -- or three days ago, he has spoken to us. It's not
13 that we haven't heard from your side.

14 MR. KALISH: Have you heard from his side.

15 ACTING CHAIRPERSON CARREL: I had not.

16 MR. KALISH: You had never heard from his side?

17 ACTING CHAIRPERSON CARREL: I had not heard from
18 him. I haven't got --

19 MR. KALISH: A hundred-page report?

20 ACTING CHAIRPERSON CARREL: I have that document
21 in here and I've read that. But I also -- so I understand
22 that you're --

23 MR. KALISH: They've got the money. All we've
24 got is the people. We're asking for you folks to stand up
25 for the people. That's all we are asking for.

1 ACTING CHAIRPERSON CARREL: I know what you're
2 asking, sir.

3 MR. KALISH: Thank you.

4 ACTING CHAIRPERSON CARREL: But I want to make it
5 clear. Both sides are being heard. And if anyone thinks
6 that their side is not being heard, you're totally
7 incorrect. We have gotten stormed with letters. And we
8 have been overwhelmed with reports from both sides. So I
9 want to make it clear that we are trying to be as
10 equitable and as fair as possible. And I did provide Mr.
11 Hill more than three times as much time as any other
12 speaker here today.

13 MR. KALISH: The Director of our election
14 commission assured us the same thing --

15 ACTING CHAIRPERSON CARREL: Sir, it's
16 inappropriate for you to speak. You're not being
17 recognized.

18 May the next speaker go.

19 PANEL MEMBER CARBAUGH: Mr. Chair?

20 ACTING CHAIRPERSON CARREL: Yes.

21 PANEL MEMBER CARBAUGH: Just a quick comment as
22 it relates to the Secretary of State and this agency's
23 cooperation with the City and County of San Francisco. I
24 know I for one actually witnessed the manual hand count.
25 I Went down to observe the demonstration and have spent a

1 significant number of hours reviewing reports and
2 documents on the subject matter. So that's just for the
3 record.

4 ACTING CHAIRPERSON CARREL: Vivian De Leon Bias,
5 Lucy Colvin, Corey Valdez.

6 MS. BIAS: I'm right after following Charles.

7 Well, I'm here partly because I believe in this
8 system that we're discussing right now. I also support
9 it. I'd also like to say that a lot of people are
10 concerned about not being represented. The Latino
11 community, the African American community, concerns with
12 the Asian community. But I believe that these communities
13 are very intelligent people and that they have a lot of
14 people behind them who would be willing to educate them.
15 And that they're able to probably speak from a much more
16 stronger place in the heart because perhaps a lot of them
17 have been oppressed. They've experienced a lot of unfair
18 treatment. And so, therefore, we hope that this system
19 would allow a lot more favorable ways to appear and to be
20 represented.

21 We didn't even hear from our Latino -- pardon
22 me -- our African American woman on this Board. She is
23 silent. I would like to hear from her at some point to
24 hear what she has to say.

25 I also understand Puerto Rican, so I'm

1 representing the Puerto Ricans from Hayward.

2 And I'd like to mention too that in our past
3 election, which it has been brought out, people said that
4 George Bush was elected. He was selected. Our democracy
5 and our election process is falling apart, and we are
6 trying to put it back together the best we can, with new
7 voices and new ideas. But these are actually old ideas,
8 from what I understand, and happens in Australia.
9 Currently, this system is happening right now and
10 apparently is quite successful. We have nothing to be
11 afraid of at this point because our system has fallen
12 apart. And we have a president that has been selected by
13 Supreme Court and not elected for the first time in
14 history. We need to question that.

15 When 90,000 plus African American voters are
16 pulled from being represented as voters, as they were in
17 Florida and Texas during the elections, we need to
18 question that too.

19 There's a lot that we're not talking about here.
20 But I just want to say I support what Steven Hill has to
21 say and what he represented and how hard he worked, and
22 his partner Lucy and many others, to make this happen.
23 And they do care about our world and our elections and
24 what's happening in the world right now.

25 So thank you. And the Eagle does represent

1 accuracy.

2 Thank you.

3 ACTING CHAIRPERSON CARREL: Thank you.

4 Corey Valdez, Jim Salinas, Sr., and Mark Mosher.

5 MS. COLVIN: Lucy Colvin from San Francisco.

6 Thank you.

7 The staff report did not come out until 5 p.m. on
8 Friday. And this is what your decision is going to be
9 based on today. We did not -- you have not interacted
10 with us on the staff report. The Center for Voting and
11 Democracy has a thorough analysis of the staff report and
12 how it is not accurate. But you did not get that until
13 this morning. You really have not interacted with us in a
14 public way yet around the issues that you are using to
15 decide this today. And I think that that's very
16 important.

17 Everything up until now you've been -- you know,
18 we appreciate the input that you've received from people
19 who want to see this system implemented. But you have not
20 interacted with our thorough analysis of the staff report.
21 Having received it just this morning, you couldn't have.
22 There would not be enough time to, and to ask questions
23 and to really go over the fine points. And I think that's
24 really important if we're really going to make this a
25 public process.

1 I was hoping it would come out earlier than 5
2 p.m. on Friday since this is today Monday. And the
3 weekend, you know, we cannot get -- you're not there. So
4 that's extremely important.

5 And I think you really need to keep working with
6 the Department of Elections. If you thought that the
7 runoff -- the hand count that you witnessed wasn't enough,
8 at that moment it would have been good to say, "Let's get
9 a bigger one," and we'll come tomorrow and do it, you
10 know.

11 But now just keep working with them -- do a
12 conditional approval and keep working with them because,
13 you know, you're approving a system that probably won't be
14 used because hopefully the machines will be approved. But
15 this system -- I have total confidence in our Election
16 Department to pull this off, to run a fair election. And,
17 you know, you brought up is the direction the vote's going
18 to be counted, is that a change in the outcome? But
19 that's looking at whether the vote -- that is in the
20 charter and the charter was passed.

21 So we're really not looking at that today. We're
22 just looking at whether it counts the votes accurately.
23 And it does count them accurately. And please work with
24 us to pick up these things about the one percent that
25 needs to be done, because if we -- it can be done. It's

1 been showed that it can be done. It's been shown that it
2 can capture the second and the third choice and not be
3 brought in.

4 And the education -- and then I'll give it
5 back -- is not just going out in the mail. We have a
6 whole proposal that many groups have come to the
7 commission hearings. They can apply for funds and educate
8 them. It isn't -- it's just not a letter in the mail.

9 But you're not going to decide on our education
10 process. You're going to decide just on this system
11 today.

12 Thank you.

13 ACTING CHAIRPERSON CARREL: Thank you.

14 Corey Valdez.

15 MR. VALDEZ: Hi. I'm Corey Valdez and I'm a
16 resident of San Francisco.

17 And I'm here today to urge the panel to do
18 everything in its power to honor the will of the voters of
19 San Francisco who in March of 2002 voted to establish
20 ranked choice voting in San Francisco and indicated that
21 it be implemented at the time for the November 2003
22 elections.

23 This panel is charged with two things, in my
24 mind. It's charged with considering whether to propose
25 before the panel meets major technical standards for

1 conducting a fair and legal election.

2 Number 2 -- and maybe a point that gets
3 obscured -- is that the panel has a commitment to honor
4 the will of the voters of San Francisco as far as is
5 possible.

6 Following from those two conditions, I think it
7 follows that the panel should conditionally certify a
8 process that meets major technical standards. Namely,
9 does the system count ballots accurately? And No. 2 is:
10 Does the proposal put before you propose a system that
11 tabulates ranked choice votes accurately? No where in the
12 Secretary staff's report to the panel does it indicate
13 that the system proposed fails to do either of those two
14 things.

15 Given that there is -- that the system proposed
16 meets that standards, I think it's imperative that the
17 panel vote to certify or certify conditionally.
18 Furthermore, because the -- that -- the issue's been
19 raised about public education. And I think that the
20 longer that the city doesn't have direction, namely that
21 the city doesn't have a certified or conditionally
22 certified process in place, the longer it takes to begin a
23 critical public education campaign. Everyday that we
24 don't have a certified process, the City of San Francisco
25 loses the opportunity to educate voters about the new

1 process and relieve some of the intimidation of the ballot
2 and overall build confidence in the November 2003
3 election. That's what we're here to do.

4 Thanks.

5 ACTING CHAIRPERSON CARREL: Thank you.

6 Jim Salinas, Sr., Mark Mosher, Chuck O'Neil.

7 MR. SALINAS: Good afternoon, Mr. Chairman and
8 panelists. Jim Salinas, Sr., a native San Franciscan born
9 and raised in San Francisco.

10 On July 25th of this year, I celebrated or some
11 friends and family celebrated my 54th and 55th birthday.
12 I voted in every election -- I think it's my mom. I have
13 voted in every election since I became of voting age. I
14 have never, ever missed an election, ever. And I taught
15 my family to do the same thing. They are all fully
16 involved in the electoral process.

17 I'm here this afternoon because I'm concerned
18 that San Francisco is going into a situation that will
19 greatly affect the two communities that I have worked very
20 hard and for the last 25 years. Both in the labor
21 community and the Latino community I have worked very hard
22 to involve folks in that same process.

23 I believe this will impact Latinos greatly,
24 because -- I believe that I'm a semi-intelligent
25 individual. I did not vote for the instant runoff because

1 I did not fully grasp all the -- the concept as it was
2 presented at the time.

3 And I'd like to clarify something. I think that
4 the two dozen people that I polled during the last two to
5 three weeks voted for instant runoff. I'm not sure how
6 people in this room or some people in this room define
7 instant. Because I define instant to the Year 2003, with
8 cell phones and FAXes and e-mail as being the -- by the
9 time I depress that button and it comes on, I have a
10 result. And that's what I think intrigued me when I first
11 started to look into the instant runoff. Because I said
12 if we can save money for taxpayers, then I'm going to be
13 for that.

14 But we were sold a bill of goods. It does not
15 exist. We're talking about a unicorn. It has yet got to
16 be born.

17 And I take great offense and exception to the
18 folks that stood up here, my Caucasian brothers and
19 sisters, who tend to pretend to speak on behalf of
20 Latinos, African Americans, and Asian Americans, because
21 unless you've walked in our shoes and met the experiences
22 that we have, you have no business speaking on our behalf.
23 And, again, I tell you that I know for a fact that it
24 becomes very, very difficult for people who walk in those
25 polling places, for a number of reasons, many of them

1 cultural. So know that you impact us greatly when you
2 push this forward. Please reject it.

3 Thank you.

4 ACTING CHAIRPERSON CARREL: Thank you.

5 Mark Mosher, Chuck O'Neil, Rob Dickinson.

6 MR. MOSHER: Hello, members. My name is Mark
7 Mosher.

8 I don't want to be repetitive of the many other
9 speakers you've heard today. But I simply want to
10 compliment you on the work that you've done in assembling
11 the staff report that's before you, and encourage you to
12 take a closer look at a couple of points that were only
13 partiality raised in the staff report, such as some of the
14 things that panel member John Mott-Smith brought up about
15 the fact that this particular type of election system or
16 process has some idiosyncratic characteristics that allow
17 by the discretion of election officials the outcome of an
18 election to be changed by the choices of certain
19 non-elected bureaucrats within city government.

20 And that is both in the way that the election is
21 conducted if there are ties; and also if you have a
22 multi-candidate election and the number of choices is
23 limited, if there's 25 people running in an election, the
24 law allows the elections director to limit the number of
25 choices that are made to 9 or 7 or 5, down to a minimum of

1 3. In many easy to envision scenarios that changes the
2 outcome of the election. That is incompatible with the
3 system of democracy that we have in this country if that's
4 allowed to happen.

5 Thank you very much.

6 ACTING CHAIRPERSON CARREL: Thank you.

7 Chuck O'Neil.

8 He departed.

9 Rob Dickinson.

10 MR. DICKINSON: I'm Rob Dickinson. I'm here to
11 urge you strongly to give conditional certification to
12 instant runoff voting. I think that it's clear that the
13 staff report is seriously flawed in a number of ways. It
14 has a number of inaccuracies regarding how manual recounts
15 would happen both for the one-percent case or for
16 requested recounts. It has inaccuracies that were
17 misunderstandings in terms of ties and other issues.

18 I think had this report not been issued at 5 p.m.
19 the day before the hearing, there would have been time to
20 actually respond to those. I think it's a flaw in the
21 process that you did not allow a national expert on the
22 voting system to have more than a few minutes to actually
23 respond to a report that just came out. Regardless of
24 whether you've worked with Steve Hill or a number of
25 people well in advance of this hearing, the report just

1 came out. And it should be responded to. I think the
2 rebuttal or the response document is probably the best way
3 to look at that.

4 I think if you do care about the will of the
5 voters, and enfranchised voters as opposed to
6 disenfranchised ones, you will vote for approval of this.
7 Because if you go with the December runoff, we know that
8 leads to low turnout. It leads to the best financed
9 candidate winning. It leads to less transparency in terms
10 of how do you raise money. There's a whole number of
11 flaws with the way that it will be done. If you don't
12 approve this it will be significantly worse than if you
13 do.

14 So I think that you -- if you follow your
15 obligations, which is to liberally construe so that the
16 will of the electoral not be defeated by any informality
17 or failure to comply with all the provisions, you have to
18 conditionally approve this.

19 ACTING CHAIRPERSON CARREL: Thank you.

20 Shirley Hansen, Ann Short.

21 MS. HANSEN: Thank you.

22 My name is Shirley Hansen. I'm a citizen of San
23 Francisco. And I just wanted to point out that some of
24 the problems that have been cited with the IRV system are
25 also present in the old system, in the one we use now when

1 you have a runoff vote. Just take undervotes. I mean if
2 people don't understand voting first choice, second
3 choice, third choice and leave second and third blank,
4 well, in a runoff vote people don't show up. That's the
5 undervote, 15 people -- 15 percent of the people show up.
6 And a lot of those are the minority voters, who may not
7 understand. You know, if they don't speak English they
8 may not understand the new type of ballot. But it's
9 easier to learn to understand that ballot than it is to
10 come to the polls twice, which is difficult for them.

11 It's difficult for everybody. It's difficult for
12 everybody to come to two elections. And it's difficult
13 for the Election Department to -- and expensive to run to
14 elections.

15 Okay. That's about all I had to say. And I do
16 urge you to conditionally approve this new system.

17 Thank you.

18 ACTING CHAIRPERSON CARREL: Thank you.

19 Sue Vaughan.

20 MS. VAUGHAN: Good afternoon, Commissioners. My
21 name is Susan Vaughan. I voted for ranked choice voting
22 in March 2002, and I'm eager to see it implemented this
23 year in November.

24 A recent San Francisco Elections Commission
25 hearing a citizen of Australia testified that the national

1 elections for their legislative candidates chose in using
2 ranked choice ballots and then they're counted by hand.

3 Polls close around 6:30 p.m. and everyone knows
4 the winners by about 9:30 p.m. Hearing their staff member
5 explain the vote tallying system for the partial hand
6 count involving teams of four poll workers, I realize the
7 partial hand count is going to be done much, much sooner
8 than 28 days.

9 In addition, there are arguments that the ballots
10 are confusing. In other words they're not voter friendly.
11 I'm a teacher. I'm fighting to the last day of summer
12 school in San Francisco and taught American Democracy and
13 U.S. History this summer. In one of my lessons I explain
14 the system of ranked choice voting that the Elections
15 Department is supposed to be implementing in November.
16 And I drew a diagram on the Board with a list of potential
17 candidates so that our next generation of voters would not
18 be surprised if they walked into the San Francisco polls
19 for the first time.

20 I explained that as voters they simply had to
21 rank them in order of reference. And they understood. A
22 few days later I had them fill out practice voter
23 registration forms, arguably much more confusing than
24 ranked choice ballots. But they did well in filling out
25 the forms also.

1 Their have been people here arguing that ranked
2 choice voting is confusing, especially to minority voters.
3 However, most of my students are minority students and
4 they did fine. And I also want to add that it's --
5 minority voters spoke for themselves in March 2002 when
6 they overwhelmingly voted for this system. I urge you to
7 implement to do a conditional certification for ranked
8 choice voting.

9 And thank you for your hard work.

10 ACTING CHAIRPERSON CARREL: Thank you.

11 Ann Short.

12 We are nearing the end of public comment. We
13 have four more. So I'll list them all. Ann Short, the
14 Reverend Arnold Townsend, Michael Harris, and back to Don
15 Eichelberger.

16 MS. SHORT: My name is Ann Short. I'm from San
17 Francisco, lived here maybe 30 years.

18 I voted first in 1941. But I was an outreach
19 worker in 1936, about 11 years old. I was Democrat and my
20 grandfather was a Republican. And I went to my aunt, who
21 was very educated, with a hand ballot. It had big boxes
22 on it. And she said, "Well, how do I write this?" I
23 said, "You put X the one you don't like," because I knew
24 she wasn't going to vote for Roosevelt.

25 Hand ballot, and we hand counted them. And we

1 hand counted them in the fire hall by dropping them on the
2 floor if we didn't. And then the other party that was
3 watching. What I'm worried about, whether you certify it
4 or not, how do we watch those people counting. That's my
5 concern.

6 The machine, I saw them in south Philly. They
7 can take care of that, out of the watchful county.

8 Thank you.

9 ACTING CHAIRPERSON CARREL: Thank you.

10 Reverend Townsend.

11 REVEREND TOWNSEND: Thank you, Mr. President,
12 panel members. My name is Reverend Arnold Townsend. I am
13 a San Francisco Elections Commissioner, although I'm
14 fairly new on the Commission. And I am speaking here as a
15 citizen, because our position as Elections Commissioners
16 is when we are given a certified election, then it is our
17 responsibility, and we don't have a choice in the matter
18 but to implement it. And I think most of the black
19 Commissioners have been clear on that.

20 I also want to say though -- I'm not speaking for
21 the Commission -- but the young lady who's a school
22 teacher up here, that I'm kind of hoping maybe she'll
23 apply to become one of our vendors because she seems to
24 have had more success than our vendors have had so far
25 getting us a certified plan for this election.

1 Let me say that my concern is obviously that we
2 have a certified election. I have not been convinced as
3 of a commissioner yet that that is the case. After
4 hearing you today, and hearing your staff report, I am
5 even more concerned that we cannot do this election right.
6 When I look back on Florida, I've had enough of elections
7 with confusing end result. And that's really what it
8 amounts to. It does not matter how many people are made
9 happy because we institute it. What matters is how many
10 people at the end of the process will feel as though their
11 vote was counted and did count. And there is still, as
12 far as I'm concerned, just too much concern over that
13 case.

14 I also want to say to you -- you heard somebody
15 say the Board of Supervisors gave us \$750,000. I said it
16 once, I was misquoted. I'll say it again. That is just
17 enough money to not do an effective outreach plan. And
18 I've got some real concern. That if you know anything
19 about San Francisco, 600,000 people and trying to get
20 educational information out to all of them with that kind
21 of money in less than 30 days is -- I mean less than 90
22 days is nearly impossible. So we have some real concerns
23 here. Ranked choice voting should be the law in San
24 Francisco. But it should be done and it should be done
25 right. And that should happen when we have a certified

1 election. And it should be instant, not hand count.

2 Thank you so much.

3 ACTING CHAIRPERSON CARREL: Thank you.

4 Michael Harris and Don Eichelberger.

5 MR. HARRIS: Good afternoon, Commissioners. My
6 name's Michael Harris. I'm with the San Francisco
7 Lawyers' Committee for Civil Rights. Our organization is
8 a public interest law firm that represents the minority
9 community in the Bay Area, with particular emphasis on the
10 African American community. And our main concern with
11 regard to this proposal is how it will affect minority
12 communities and, in particular, the African American
13 community.

14 We've done some research. And our main concern
15 is voter participation. What we've observed based on
16 prior elections is that the number, percent of minorities
17 who participate in runoff elections diminishes
18 substantially from those that participate in general
19 elections. So because of that we're very intrigued by the
20 possibilities of increasing minority voter participation
21 through instant runoff voting, because it captures their
22 vote in the first round of the elections.

23 I listened very carefully to the question and
24 answer soliloquy between the panel and your expert. And
25 with regard to the number of items in which there appears

1 to be minor noncompliance, he answered that, with regard
2 to virtually everything that was thrown to him, most of
3 those could be easily remedied. And so it seems to me,
4 particularly in regard to the answer from your staff that
5 it has gotten excellent cooperation from the San Francisco
6 Department of elections -- and I'm sure the answer going
7 the other way would be the same -- there is no reason why
8 you should not have your staff work with the Department of
9 Elections to resolve some of the questions that are still
10 hanging over that the panel still has questions about and
11 allow the city to go forward to get certification.

12 I think, you know, as I indicated before, these
13 are minor problems that can be worked out with some
14 communication and cooperation. And so, therefore, there's
15 no reason why we should not conditionally certify this
16 application and go forward from there.

17 Thank you very much.

18 ACTING CHAIRPERSON CARREL: Thank you.

19 MR. EICHELBERGER: Good afternoon, Commissioners.

20 My name is Don Eichelberger. I'm from San
21 Francisco. I work with the Green Party. But I'm speaking
22 as an individual on this particular issue. I want to
23 thank you all for the time and effort that you're putting
24 into this.

25 And I think the message that I want to give in

1 urging your support and approval for this is to recognize
2 that -- I need a call for boldness in this decision. I
3 think that a lot of you may be concerned that this voting,
4 this ranked choice voting is going to change politics.
5 And I think it will. I think it will have a profound,
6 different -- will make a profound difference in the way
7 people think about candidates, how they choose candidates.
8 I think it's going to have a bigger impact on minority
9 participation, as the previous speaker noted as having one
10 instead of two votes to come to, especially one right
11 around Christmas time. Having ranked choice, being able
12 to think about who do I want and then who would I settle
13 for, you know, who do I want -- do I want up front, or do
14 I want, you know, Ralph Nader or whatever. I can vote for
15 that person and then I can vote for somebody else that I
16 could stand, I could handle, I could deal with.

17 That to me is Democracy 1A. That is something
18 that I would feel like I have a real choice in who I'm
19 voting for. And I wouldn't be afraid to vote for who I
20 really want to vote for because if enough people vote for
21 who they really want, someday somebody that they really
22 want will get elected.

23 So I urge you please to support this initiative.

24 Thank you very much.

25 ACTING CHAIRPERSON CARREL: Thank you.

1 We've come to the end of the public comment
2 period. I see no more cards.

3 So we now come to the point where the panel --
4 that I will entertain a motion from the panel to either
5 support the staff recommendation, to oppose the staff
6 recommendation, to table it, or to adopt either parts of
7 it or to adopt it conditionally.

8 So I leave it open for a motion.

9 PANEL MEMBER MOTT-SMITH: Then I'll make a
10 motion, prefaced by: Notwithstanding a lot of the
11 discussion, this is not about instant runoff voting in
12 terms of this panel's decision; and notwithstanding some
13 of the discussion, this is the first time we've had a
14 meeting about a system that was enacted by the voters 16
15 months ago. The time that it took to get from that vote
16 to here is not any time the ball was in our court in terms
17 of moving this forward or acting as an obstacle. And I
18 think that's important to understand, because there have
19 been a lot of comments, and I maybe take them a little too
20 personally, about whether or not the Secretary of State's
21 Office is helping this or hindering it. We have moved it
22 forward as expeditiously as we can based on what has come
23 to us. And I just want that to be clear for the record.

24 I also want it to be clear for the record that
25 the San Francisco Department of Elections never I think in

1 its wildest dreams envisioned that as a result of that
2 vote by the people that it would have to invent the voting
3 system. But they've done a tremendous amount of work to
4 get one forward, and I think they deserve an awful lot of
5 credit for having crafted something that would
6 potentially, as advertised, be a fallback to an automated
7 system if it didn't work.

8 Having said that, our job in my view is to look
9 at the state standards for voting systems. And to be
10 honest with you, in my view this hand count system does
11 not meet the requirements for this panel -- or for me to
12 vote on this panel to certify this.

13 As a sidelight to that I'd say that several
14 people mentioned that lots of things about this system are
15 not ideal, or words to that effect, but let's go forward
16 anyway. Coupled to that I would add that I've been in San
17 Francisco for every election virtually for the last eight
18 or ten years. And I think those two statements are
19 potentially related. And they need to be uncoupled in
20 order for San Francisco to move forward with the standard
21 of an election system that everybody can be proud of.

22 So this is the language in my motion. I have it
23 written down. I move to deny the application for
24 certification for the instant runoff voting manual data
25 capture and tabulation procedures, with a finding that the

1 proposed item does not conform with all applicable laws,
2 procedures, and regulations; potentially compromises the
3 accuracy, security, and integrity of the voting process;
4 and may substantially interfere with the voters' ease and
5 convenience of voting.

6 PANEL MEMBER MILLER: Mr. Chairman, I second the
7 motion.

8 ACTING CHAIRPERSON CARREL: So we have a motion
9 and a second, which is essentially to adopt staff report.
10 Is that how I interpret it?

11 PANEL MEMBER MOTT-SMITH: It is. But the
12 language of the motion is to incorporate the language of
13 the required finding in the procedures that we're required
14 to make.

15 ACTING CHAIRPERSON CARREL: I appreciate that.
16 Now, it's up for discussion from the panel and
17 the comments from the panel.

18 PANEL MEMBER MILLER: Mr. Chairman, I did second
19 the motion. And I know it's not relevant, but I have long
20 supported instant runoff voting. I think it's an
21 appropriate way to go and I've been enthusiastic about its
22 support way back when.

23 Having said that, however, it's -- the devil is
24 always in the details. And having looked at this, having
25 read the materials, having read the staff report -- this

1 gentlemen over here who's now gone said it best when he
2 said this proposal is not ready for prime time.

3 I fully support the concept the devil's in the
4 details. And I just simply think the staff report must be
5 adopted to be fair to the voters of San Francisco. And
6 I've voted in San Francisco for many years and.

7 (Thereupon a person spoke from the audience.)

8 ACTING CHAIRPERSON CARREL: Excuse me. The
9 comments of the audience are out of order.

10 PANEL MEMBER MILLER: For that reason I second
11 the motion.

12 ACTING CHAIRPERSON CARREL: Any further comments
13 on this?

14 PANEL MEMBER GUTIERREZ: Yeah. The thought that
15 goes through my mind is that the Secretary of State's
16 Office has a statutory responsibility to certify voting
17 equipment. It's a responsibility that this Secretary is
18 taking very seriously, as the former Secretary did. This
19 Secretary has directed us to ensure that we have an
20 appropriate number of well recognized national experts on
21 voting systems. And we have gone about a national search.
22 And we're very pleased that Steve Freeman has been able to
23 join us for this particular effort. And we're still
24 seeking more.

25 We had a test. The standards were known. We

1 applied it. The San Francisco Elections Department was
2 cooperative and helpful and did everything that they
3 possibly could. I'm going to rely very heavily on the
4 reports that are contained here, the expert staff that
5 have commented. And they are suggesting that this system
6 is not ready to go yet.

7 ACTING CHAIRPERSON CARREL: Ms. Carbaugh.

8 PANEL MEMBER CARBAUGH: I just have a quick
9 comment.

10 First of all, I again would like to thank
11 everybody for taking the time to be here today and to
12 provide input.

13 And what I'd like to say is that a gentleman -- I
14 think it was the gentleman from CalPIRG indicated earlier
15 that where there is a will, there is a way. And I too
16 subscribe to that philosophy. Having said that, it's
17 important to note that the way that is before this Voting
18 Systems Panel today is not acceptable, in my mind. So I
19 do think if you continue on, perhaps you will determine or
20 find a way, but it's just not in front of us today.

21 ACTING CHAIRPERSON CARREL: Laurie.

22 PANEL MEMBER McBRIDE: I just want to add that a
23 lot has been said here today about our obligation as a
24 panel. And I just want to be clear that from my
25 perspective our obligation is to all the citizens of

1 California to make sure that any system that we certify
2 and every system that we certify conforms to State law,
3 and that our priority in this agency is to restore
4 integrity to the voting system. And that doesn't mean
5 that we can accept this system with these imperfections
6 and those imperfections as if there's something tiny about
7 them or that it's okay that we might be introducing that
8 into the system. We've got to move beyond that.

9 So I believe very much that we have to come up
10 with a system for instant runoff voting that does conform
11 to State law. I do believe that is possible and that we
12 will get there.

13 ACTING CHAIRPERSON CARREL: Are there any other
14 comments from the panel?

15 (Thereupon a person spoke from the audience.)

16 ACTING CHAIRPERSON CARREL: Excuse me. Excuse
17 me. If the sergeants can -- the sergeants can come by.

18 If there's any further disruptions, people will
19 be removed. We cannot have comments from the audience.
20 Everyone has had the opportunity for public comment and we
21 have heard you. But we cannot have comments from the
22 audience.

23 Are there any other comments from the panel
24 members?

25 Well, having the prerogative of the Chair, I have

1 some comments to make.

2 I have to say that I have listened to the
3 comments. And I was taking notes throughout. And I want
4 to reflect on a few of the points that were made.

5 One was that there is -- one gentleman said that
6 no system is perfect. And that's correct, no system is
7 perfect, and no system that is adopted by this panel is
8 perfect. But every system that's adopted by this panel is
9 in conformity with State law and is in conformity with
10 State regulations. So the question that's posed to us is:
11 Does this system meet those standards? We aren't looking
12 for perfection. We are looking for conformity with the
13 law.

14 Second, another person said that this system will
15 change politics -- IRV will change politics. That may
16 well be true. But we're not here to determine the value
17 or lack of value of IRV. That is the will of the voters,
18 and the City of San Francisco has to figure out a way to
19 implement it. They've submitted an application for this
20 system. And we have to determine if this system does that
21 and is acceptable.

22 One speaker said that they're waiting for us to
23 dot the final i's and cross the final t's. I really
24 resent that actually, because we're not here to do the job
25 that the applicants are to do. And I give a lot of credit

1 so Mr. Arntz. He put a lot forward, much more than most
2 cities have to deal with and most counties have to deal
3 with, with regard to implementing a system.

4 The vendor did not have the system available that
5 I believe San Francisco was expecting. And Mr. Arntz
6 worked with our office and did a wonderful job putting
7 forward an application that went well beyond what is
8 normally expected.

9 The question though is: Did it meet the level
10 that we needed to meet? And that's to decide today.

11 And I resent the fact that the -- some speakers
12 said it's now in our court. It's not in our court. Our
13 court is to determine the efficacy of this system and
14 implementation of this system. What's in -- It's in San
15 Francisco's court whether to -- whether they can implement
16 an IRV system. With or without this manual count, they
17 have to abide by the law. And if this application doesn't
18 meet our standards, another application has to go forward
19 that we will evaluate on the same basis. And I understand
20 the time limitations. But as Mr. Mott-Smith said, the
21 time limitations were not imposed by us. They were
22 imposed by a variety of factors.

23 Another speaker said if there's a will, there's a
24 way. That may be true. But we're obligated to follow the
25 law. And I'm not really willing to go out of my way and

1 bypass -- it conforms to the will if the will of the State
2 law is greater than the will of the people of San
3 Francisco.

4 A lot of people talked about conditional approval
5 and whether this panel should adopt it conditionally. And
6 that goes to something that I asked Mr. Hill when I spoke
7 to him last week. I said, "Be honest with me. Be very
8 direct with me. Do you support the system before us even
9 if it is imperfect and even if it creates chaos versus a
10 waiting until you know that you have a system that
11 actually will work?" And he didn't give me a direct
12 answer. But he wanted -- he urged me to support this
13 conditionally because he believed that it was necessary
14 for IRV to move forward.

15 And I got the sense from a lot of people here
16 that that's sort of the expression, that conditional
17 approval is what's necessary because this is a one-time
18 patch, as it were. Well, I don't know that that's true.
19 We have seen how long it takes for any system to get put
20 forward to us. And who knows how long it will take to put
21 forward a second system. But my sense is conditional
22 approval would have us say, "We know it doesn't work
23 fully. We know it doesn't meet the standards of the law.
24 We believe it's confusing and complicated. We think it
25 may result in serious problems. But let's do it anyway."

1 And I don't know that I can buy that.

2 One individual said it's not ready for prime
3 time. Well, I would disagree. I don't think it's ready
4 for any time given the limitations that we've seen. And
5 there are too many deficiencies with this system, and it
6 in my mind creates a serious risk that the meltdown that
7 one individual talked about will occur again, just in a
8 different way. And there will be even more confusion.

9 So I support the motion offered by Mr.
10 Mott-Smith. And if there is no other further comments, I
11 would call the question.

12 All those in favor of approving the motion as
13 read by John Mott-Smith and seconded by Mr. Miller say
14 aye.

15 (Ayes.)

16 ACTING CHAIRPERSON CARREL: All those opposing
17 say no.

18 The ayes have it. The certification -- the staff
19 report is adopted. The certification is rejected.

20 Seeing that there's no other business before this
21 panel, the meeting is adjourned.

22 (Thereupon the California Secretary of
23 States' Office, Voting Systems and Procedures
24 Panel meeting adjourned at 4:30 p.m.)

25

1 CERTIFICATE OF REPORTER

2 I, JAMES F. PETERS, a Certified Shorthand
3 Reporter of the State of California, and Registered
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the
6 foregoing California Secretary of State's Office, Voting
7 Systems and Procedures Panel meeting was reported in
8 shorthand by me, James F. Peters, a Certified Shorthand
9 Reporter of the State of California, and thereafter
10 transcribed into typewriting.

11 I further certify that I am not of counsel or
12 attorney for any of the parties to said meeting nor in any
13 way interested in the outcome of said meeting.

14 IN WITNESS WHEREOF, I have hereunto set my hand
15 this 8th day of August, 2003.

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23 JAMES F. PETERS, CSR, RPR
24 Certified Shorthand Reporter
25 License No. 10063